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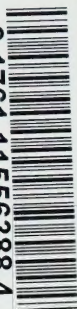
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The Report

*of the Special Advisor to the Minister of National Health and Welfare
on Child Sexual Abuse in Canada*

Reaching for Solutions

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on Child Sexual Abuse in Canada

Reaching for Solutions

The views expressed in this report are those of the Special Advisor and do not necessarily reflect the official views of Health and Welfare Canada.

Copies of this Main Report or the Summary Report may be obtained by contacting:

National Clearinghouse on Family Violence
Health and Welfare Canada
Ottawa, Ontario
K1A 1B5

Toll-free: 1-800-267-1291

Également disponible en français sous le titre
«À la recherche de solutions
Le rapport du conseiller spécial du
ministre de la Santé nationale
et du Bien-être social en matière
d'agressions sexuelles contre les
enfants au Canada»





Health and Welfare
Canada

Santé et Bien-être social
Canada

Special Advisor
to the Minister
on Child Sexual Abuse

Conseiller spécial auprès
du ministre en matière
d'agression sexuelle des enfants

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June 1990

The Honourable Perrin Beatty, P.C., M.P.
Minister of National Health and Welfare
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Minister:

I have been privileged to serve as Special Advisor to the Minister on Child Sexual Abuse. The last two years have been an intense experience of discovery for me about a problem which profoundly affects the lives of many Canadians and deeply scars our entire society.

I hereby submit my report to you in the hopes it will be useful in addressing the various complicated issues related to the sexual abuse of children. Thank you for the privilege of serving in this way.

Respectfully,

Rix G. Rogers

*For we all need help
in the form of a protective bubble
round our youth
so each of them may
blossom in a world of their own
live in peace
and without fear
ever again, as so many
in recent generations have.*

A Mother from Hamilton, Ontario

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Acknowledgment

Some 1600 persons have contributed to the development of this report, through discussion, letters, special submissions and participation in various working sessions. These persons include government and non-government representatives, professionals from several disciplines, family members, victims, adult survivors and offenders. Front-line workers, supervisors, administrators, community representatives and senior public officials all contributed their time, knowledge, experience and expertise. A number of these individuals provided invaluable comments on the discussion paper prepared in the autumn of 1988 and during the summer of 1989 on a draft of this report.

About 100 of these individuals participated in special thematic working sessions to probe for pragmatic solutions to the problem of child sexual abuse. After each of the four thematic workshops, discussion papers were prepared by one of the participants: the authors of these valuable reports were Nick Bala, Elizabeth Hill, Frederick Mathews and Andy Wachtel. Excerpts from these papers are incorporated into the text of this report without further acknowledgment. In particular, the section on justice issues, incorporates significant work by Professor Nick Bala of the Faculty of Law at Queen's University.

In May 1989 some 250 persons participated in a National Strategy Workshop in Ottawa, which was convened for the purpose of helping the Special Advisor formulate recommendations and strategies which are reflected in this report. The sense of urgency and passion expressed by this group was overwhelming. Many of the ideas and recommendations contained in this report reflect the views put forward in the National Strategy Workshop.

The Interdepartmental Steering Committee on Family Violence of the federal government has provided ongoing advice and assistance to me. This group includes representatives from fourteen federal departments and agencies. The Minister's office, senior officials of Health and Welfare Canada, and in particular the Family Violence Prevention Division have provided day-to-day encouragement as well as administrative support. In Health and Welfare Canada, John Soar, Peter Glynn, Don Ogston, Elaine Scott, Joyce Aiston and Sol Shuster have all contributed substantially to the project.

Diane Ponée and Lorna Grant provided essential support, especially in workshop design and the consultation process. I would also like to acknowledge the co-operation and assistance of representatives of the provincial and territorial departments of social services who provided extensive briefings to the Special Advisor, arranged meetings with other appropriate departments and officials, and provided advice in regard to many critical issues.

Finally, two persons who have assisted me greatly over the summer months as technical advisors, researchers and editors in preparing this report are Nick Bala and Susan Thomas. Without their commitment, support and hard work, the report would not have been possible.

I wish to express to one and all my deepest gratitude for their magnificent effort, their tenacious support for children's issues, and for their continued counselling and assistance to me. I will be forever indebted to all of them.

Rix G. Rogers

Foreword: The Special Advisor's Mandate

In 1984, a committee chaired by Robin Badgley¹ delivered its report on *Sexual Offences Against Children* to the Ministers of Justice and of National Health and Welfare. The federal government's response to that report included the 1987 amendments to the provisions of the Criminal Code dealing with child sexual abuse, and the designation of Health and Welfare Canada as the lead Ministry in the area of child sexual abuse.

In June 1986, the Honourable Jake Epp announced that Health and Welfare Canada would establish a Family Violence Prevention Division and would make \$20 million available over five years for special initiatives related to child sexual abuse. A Special Advisor to the Minister was to be appointed to serve as the focal point for developing a longer-term strategy for dealing with child sexual abuse. The government also allocated \$5.1 million to the Department of Justice for special initiatives in the justice field.

The Family Violence Initiative, involving six departments of the federal government, was launched in 1988. It includes child sexual abuse in its mandate, and has supported child abuse projects as part of its special funding program.

Mandate of the Special Advisor

In August 1987, I was named Special Advisor to the Minister of National Health and Welfare with a mandate to prepare for the Minister a report on the long-range direction of federal child sexual abuse initiatives, their

implementation and co-ordination. The appointment has continued for the two and a half years it has taken to complete the work on this project and the preparation of this report.

It was agreed that I would begin by meeting officials of various federal departments, provincial ministries, the territories, professional groups, researchers and academics. Front-line caregivers and supervisors in child protection local co-ordinating committees, treatment specialists, hospital and police teams, self-help groups, native leaders, and workers in small communities also have been consulted. In sum, I was to consult with as broad a cross-section as possible of vitally concerned individuals.

Provincial/territorial social services ministries provided generous assistance in arranging consultations with appropriate officials and community representatives.

In addition to meeting a wide variety of service providers and policy makers, I was also able to visit residential treatment centres for adolescents, meet with self-help groups, observe group therapy sessions with adult offenders, and view a videotaped session with adolescent offenders. The purpose of these activities was to hear directly about the nature of the problem in the late 1980s, and to experience some of the ways in which the problem was being handled across the country.

Consultation meetings began in November 1987 and have continued through April 1989, during which time I met with approximately 1600 people from coast to coast. During the consultation process, special efforts were made to visit small communities across the country as well as more isolated communities in the far North.

Discussions were open and forthright. It was especially heartening to have the opportunity to meet with people who work at a variety of levels, from front-line volunteer and

1 Committee on Sexual Offences Against Children and Youths, *Report of the Committee on Sexual Offences Against Children and Youths* [The Badgley Report], Vols. I and II and Summary (Ottawa: Supply and Services Canada, 1984).

professional intervention to the highest of policy-making positions in provincial/territorial and federal departments.

A significant challenge relative to the mandate of the Special Advisor and the nature of child sexual abuse is the complicated nature of the overlapping professional and governmental responsibilities. It became apparent that it was impossible to address the issue without assuming an all-encompassing perspective. Thus, in addition to suggesting federal roles and responsibilities, I have made suggestions about initiatives for other levels of government, and for various professional and community organizations.

This is not meant to be intrusive, but rather is intended to offer recommendations that other levels of government and various professional and community organizations may find useful in their own strategic planning. I beg the indulgence of those concerned, hoping that these suggestions will be accepted in the spirit in which they are intended.

Work Plan and Timetable

Phase I: A Consultation Process (November 1987 to October 1988)

The purpose of the consultation process was to seek a broad understanding of concerns and issues, to hear a variety of opinions about needed initiatives, and to lay the groundwork for a plan for the future. Because much of the responsibility for intervention falls within provincial/territorial jurisdiction, some of the recommendations that follow in this report will require collaboration between the levels of government.

The methodology of the consultations was an open-ended process in which the following basic questions were asked in the context of seeking a first-hand briefing related to policies, programs, experience and continuing difficulties:

- What is the current situation regarding child sexual abuse in your area or jurisdiction?
- How extensive is the problem? Are statistics available?

- What initiatives has your department/group/organization undertaken in recent years to address child sexual abuse?
- What mechanisms or policies exist to facilitate communication, co-operation or co-ordination?
- What gaps, problems or concerns can be identified relative to dealing with the effects of child sexual abuse as well as its prevention?
- Do you have suggestions about the federal government's long-term role and responsibility?

Information gathered as a result of these consultations was summarized in a discussion paper, "An Overview of the Issues and Concerns Related to the Sexual Abuse of Children in Canada," released in October 1988¹. This paper was circulated to those involved in the consultations in order to seek further information, corrections and comments.

The purpose of the discussion paper was to produce a working agenda highlighting the pertinent realities that must be addressed.

In the fall of 1987, federal government officials formed a senior level Steering Committee on Family Violence, which included 14 federal departments and agencies, chaired by Mr. John Soar, then Assistant Deputy Minister of the Social Services Programs Branch, Health and Welfare Canada. More recently the committee has been chaired by Dr. Peter Glynn, Acting Assistant Deputy Minister of the Social Services Programs Branch. Committee members, individually and collectively, provided ongoing advice and information to the Special Advisor and emerged as an important consultative mechanism at the federal level for the Special Advisor over the two-year period.

Phase II: Working Sessions (November 1988 to May 1989)

Phase II of the process began in November 1988 with four two-day working sessions in different fields. A small group of experts gathered for each working session to

1 R. Rogers, "An Overview of the Issues and Concerns Related to the Sexual Abuse of Children in Canada" (Ottawa: Health and Welfare Canada, October 1988).

develop pragmatic solutions and alternatives in designated theme areas. Workshop participants were selected from across Canada and represented outstanding individuals from a wide variety of professional backgrounds.

The four areas addressed in the working sessions were:

- public awareness, society's values and the prevention of abuse (November 1-3, 1988, Scarborough, Ontario);
- issues related to the justice system and the protection of children (November 16- 18, 1988, Vancouver, B.C.);
- treatment for victims, their families and offenders (December 5-7, 1988, Halifax, Nova Scotia); and
- concerns of aboriginal, rural and remote communities (January 4-6, 1989, St. Albert, Alberta).

After each session, one of the participants was commissioned to write a report. These reports were circulated to participants at the National Strategy Workshop before the meeting.

The working sessions were followed by a special meeting in Montebello, Quebec, in February 1989 with provincial/territorial government representatives to review progress to date and to share further thoughts about the final stages of the Special Advisor's mandate. An April meeting of professional representatives from national, professional and non-governmental organizations took place in Ottawa to review emerging issues and subsequent steps. This was the second such meeting. National NGOs had been convened in Ottawa by the Special Advisor in June 1988 also.

Phase III: The National Strategy Workshop (May 1989)

A three-day National Strategy Workshop, *Reaching for Solutions*, brought together some 250 delegates from every part of Canada. Their task was to develop pragmatic recommendations for future action, which would be pivotal in the final report of the Special Advisor. The strength of the commitment of conference participants was heart-warming and is reflected in their very important contribution to many of the recommendations in this report. A significant movement on behalf of children is gaining momentum in Canada.

Preparation of the Report

The final step in the process was the preparation and submission of this report with recommendations to the Minister of National Health and Welfare. The report was written in the summer and early autumn of 1989. A confidential draft of the report was circulated for comments to a limited number of key officials in the federal and provincial governments and to various professionals. Final refinements were completed in January 1990.

Logistics and Support

The concept of a Special Advisor, reporting directly to the Minister, but also working closely with department officials, has proved a viable model for combating an area of special concern such as child sexual abuse. The Special Advisor worked closely with officials of the Social Services Programs Branch of Health and Welfare Canada, who provided ongoing support and assistance. The Assistant Deputy Minister, John Soar, was closely involved. Dr. Don Ogston, Director General, Program Development Directorate of the Social Services Programs Branch, offered invaluable advice throughout the process. Of particular value was the involvement of Elaine Scott, Director of the Family Violence Prevention Division and Senior Consultants Sol Shuster and Diane Ponée. The partnership between the Special Advisor and the division was mutually beneficial in assisting the Special Advisor with his task, and also in enabling the Family Violence Prevention Division to strengthen relationships with those working in the field of child sexual abuse.

The Family Violence Prevention Division has also provided administrative and secretarial support, assisted with travel arrangements and the production of documents, and provided office space for the Special Advisor. This support was essential to the Special Advisor and has been greatly appreciated.

The Consultation Process

The consultation process was a highly satisfactory experience from the perspective of the Special Advisor. The inclusive nature of the consultative process highlighted the importance of a broad approach in the search for solutions.

The experience reinforced the importance of the collaborative efforts of all levels of government and non-governmental organizations.

Areas Requiring Further Study

The consultation process has been extensive and wide-ranging over the two-year period, but it is apparent that several important areas require further attention and study:

- a focused examination of the problems and issues related to child sexual abuse in rural and remote non-native communities;
- further study of providing service and support to aboriginal peoples in rural and remote communities (particular circumstances vary greatly across Canada and the process of consultation with aboriginal representatives has just begun);
- a focused examination of the problems and issues related to child sexual abuse involving aboriginal peoples in urban settings, where there are serious and unresolved problems;
- a focused examination of the problems and issues related to child sexual abuse in immigrant families, with special focus on the needs of those who are arriving from refugee camps, as well as the needs of distinct ethnic and linguistic groups in Canada;
- a focused examination of the problems and issues related to child sexual abuse involving disabled and mentally handicapped children; and
- a focused examination of the problems and issues related to child sexual abuse for children living in institutional settings.

Introduction: Personal Reflections of the Special Advisor and Priority Themes

My life has been deeply marked by my experiences of the last two years as Special Advisor to the Minister of National Health and Welfare on the issue of Child Sexual Abuse. I have been shocked by the anguish and pain of so many victims and adult survivors. I have also come to understand that this problem is so pervasive that any child could be a victim of sexual abuse, including my own children and grandchildren.

One of the most disturbing discoveries for me has to do with the impact of underlying social attitudes and values related to male and female sexuality. More than I ever realized, these tend to condition males to be sexual predators and females to be sexual victims. Our patriarchal society has set the conditions for sexual assaults and harassment, including the sexual abuse of children. I am increasingly uncomfortable with the realization that such behaviour has for too long been tolerated in our society. In my opinion, one of the most significant tasks ahead of us is to make major changes in the underlying deeply rooted attitudes of sexism.

The sexualization of children in advertising, the presence of child pornography and the reinforcement of the macho male model are not helping us to develop a more nurturing society, where vulnerable members are respected and protected.

Parents and grandparents have recounted numerous stories to me about the impact of the trauma for children and for themselves. They spoke of their sense of helplessness as they endeavoured to find support and understanding from the responsible professionals who work in the criminal justice, social service and health systems. Too often sensitivity, compassion and professional competence were absent. Inexperience, lack of training and a lack of recognition of the symptoms of child sexual abuse are all too common. I must, however, point

out that I was also privileged to meet many experienced and competent professionals in all parts of the country. It was inspiring to meet many of the dedicated, committed volunteers and professionals who work in this field.

A number of recent developments have affected the level of awareness and understanding of the problem of child sexual abuse. These include dramatic disclosures over the past year, increasing media attention, and special funding initiatives of governments. I believe the consultation process of the Special Advisor has also had a role in altering awareness of the problem. The result has been greater awareness by professionals, the media and the public at large.

It is my conviction that before many more lives are ruined, society as a whole and its responsible institutions must make a commitment to this issue on a continuing, long-term basis.

When I began this assignment in August 1987, I had only limited awareness and understanding of the problem of child sexual abuse. Like most Canadians exposed to media reports, I was aware that there was a problem. But like many others, I assumed that these were isolated incidents and were not prevalent in society. I believe many Canadians still perceive the problem in that fashion. What I found, as a result of extensive consultations across Canada, is that the incidence of child sexual abuse is widespread, although still largely hidden, and that the problem permeates every segment of society and all communities.

I am continuing to find out how much I do not know about the agony of thousands of victims in Canada or about the many problems related to our support systems, such as jurisdictional and professional competition and inadequate public and professional education.

On a more personal level, I am troubled that, despite 30 years of work in a major child-serving organization, I was not more aware of child sexual abuse as I entered the assignment two years ago. How could it be that such a serious problem had escaped my attention? Was I so naive or was the problem so hidden? Or, perhaps, unconsciously I simply discounted the problem. Whatever the factors, I am deeply disappointed that I was not more aware of the problem of child sexual abuse at an earlier date.

The federally sponsored Badgley report of 1984 was the first comprehensive effort in Canada to gain a national overview of the problem of child sexual abuse. It was a seminal piece of work. Many of the Badgley committee's observations and conclusions seem to be even more pertinent in 1989 than they were in 1984. In this report, I refer often to the Badgley report.

My first task was to reread the Badgley report and several other related publications. I remember asking myself whether the problem was being overstated and overemphasized. Thus, I entered the assignment with a natural degree of scepticism that is typical of the uninitiated, with no predetermined agenda or preconceived notions about the problems and solutions, and my credentials are certainly not those of an expert in the field.

My background includes community organization and community development, and this experience hopefully contributes to the task at hand. What I had to offer was an attentive ear to various points of view and a willing ability to focus on pragmatic steps to change the present realities. My career has been in the voluntary sector in Canada. I spent 30 years with the YMCA, a major child-serving organization and, more recently, two years as Chairman of the Coalition of National Voluntary Organizations in Canada.

During the consultations, I received reports and briefs from experts in the field, government departments and voluntary groups and individuals. This material is included in the bibliography.

After two years of travel and meeting with approximately 1600 people, I can scarcely believe the overwhelming and complicated nature of child sexual abuse. I am appalled that a problem of such enormous proportions and with such devastating effects on children continues to take place in Canada. Even with the publication of the Badgley report, which details the problem

and its impact on children, there has been limited progress. Recently, momentum in most sectors to tackle the problem has been growing, and an extensive range of special initiatives are under way across Canada to address the problems of the sexual abuse of children. Many of these initiatives are elaborated later in this report.

In addressing any significant social problem, I deeply believe all sectors of society must join together and that co-ordination and involvement at the neighbourhood level is essential if real change is to be realized. Government activity and effort alone is not sufficient. Governments must serve as policy setters, catalysts, facilitators, service and information providers and funding sources. Above all, governments must provide a style of leadership that encourages the involvement and commitment of others and that helps to build trust throughout society. These views and beliefs are reflected in this report and have influenced many of the recommendations.

Power is an important concept influencing many aspects of society. In our society, there are many power imbalances at an individual and familial level, as well as at an institutional level. Individuals and organizations with resources have more power than those with few resources. This often means that governments, business interests and men have more power than others. Many women, children, disabled persons and minority groups do not have power, even over their own lives. An important task for those with power is to exercise the use of power in such a way that the vulnerable become less vulnerable and, above all, are safeguarded, protected and afforded all the rights to which any citizen is entitled. Governments must be exemplary in their relationships with all sectors, including community-based groups and non-governmental organizations, in order to ensure that they are appropriately empowered to fulfil their potential in serving the community.

In addition, the healing and treatment processes involving victims and adult survivors must be designed to help these individuals regain a sense of power, direction and worth for their own lives. Again, these concepts and values are evident in my recommendations.

The hidden, long-standing problem of the sexual abuse of children is unfolding dramatically everyday in the media, and society is traumatized to learn that some of our most

trusted adults, including parents, teachers and clergy have been victimizing children. It is time to recognize that these problems are real, but that they can be addressed. This report presents the view that shared leadership is an essential strategy involving governments, professionals, community-based groups, volunteers and the private sector.

The changes we need to make in Canada both at a prevention and public education level, as well as in co-ordinated services to those in need, require the concerted and inclusive support of all.

Although there has been progress on many fronts, including governments and community-based groups, there is still much to be done. This is the subject and focus of this report. We should celebrate the successes being achieved, but realistically we should assess the grave challenges still ahead of us. We must develop a comprehensive strategy so that the many players, both government and non-governmental organizations, can see how their respective roles may reinforce one another.

A Perspective for the Future

It is my belief that every society needs to have a sense and vision of the future. This in part is the social fabric that holds people together and energizes bold initiatives and broad action. I also believe our society is in the process of undergoing fundamental changes related to social, economic and political developments that are gradually changing our values in significant ways. We are becoming more conscious of the need for a more caring society, particularly in relationship with vulnerable persons and with regard to economic development that enhances rather than depreciates the human condition. There is a potential for a fuller sense of spirituality and less preoccupation with materialism. These changes will likely take many years, but their directions are already perceptible. Therefore, I am basically optimistic that Canadians will take current social problems seriously and will work to achieve significant improvement in our society.

We in Canada have clearly identified through our laws, and increasingly through attitudes and beliefs, that vulnerable persons in our society must be protected and fully valued as

members of society. This includes women, children, the disabled, and minority groups and our aboriginal peoples.

We do not yet have a consensus about the value of children in the scheme of things. In fact, demographic data might suggest that we do not value children, because the proportion of children to total population is shrinking. We need to develop a focus on our future, our children.

Economists are beginning to address the importance of "investing" in our children more directly. A recent article in the *Atlantic Monthly*¹ highlights this issue:

The two ways that a society provides for its future are its level of physical capital accumulation – that is, the number and quality of its machines, factories, roads, and so on – and the number and quality of its kids. In both cases, you can cheat on the accumulation and, by doing that, raise your current consumption. But eventually it comes back to haunt you.

As children become a more scarce and precious resource, we must make concerted efforts to ensure that all children are nurtured in their development. We can ill afford to lose the value of thousands of children because of abuse, neglect and alienation. Canada needs competent and responsible adults to ensure our survival and prosperity into the 21st century. Our children are our future.

The *United Nations Convention on the Rights of the Child*² will be an important reference point in the development of long-range Canadian policy. Article 19, in part, reads:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

1 Johnathan Rauch, "Kids as Capital," *Atlantic Monthly*, August 1989, p. 57.

2 See Appendix C: United Nations Convention on the Rights of the Child.

Article 34 further states:

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) the inducement or coercion of a child to engage in any unlawful sexual activity;

(b) the exploitative use of children in prostitution or other unlawful sexual practices; and

(c) the exploitative use of children in pornographic performances and materials.

My vision for Canada is to create a society where children are respected and valued. One verse from the song entitled "The Greatest Love of All" expresses the vision eloquently:

*I believe the children are our future
Teach them well and let them lead the way
Show them all the beauty they possess inside
Give them a sense of pride
To make it easier
And let the children's laughter
Remind us how we used to be¹.*

The values and beliefs of Canada's aboriginal peoples also expresses the vision eloquently:

The first gift...the gift from the East...is the gift of kindness. This gift obliges all people to be kind in their relationships with one another and with all creation, including the animals and the land. Just as our mothers took care of us when we were young and defenceless, so must we take care of others, especially those less fortunate than ourselves. We are obliged, by our very existence, to return the gift of the East and share it with others. We must respect and treat with dignity all of the Great Spirit's creations. This means that we cannot, we must not, turn our backs on our brothers. We must reach out and embrace all people.

The second gift...the gift of the South...is that of honesty. We have a responsibility to be honest with ourselves and honest in our relationships with each other. We are not to be deceitful nor insincere. As we know, honesty must start with ourselves. As individuals, we must stop denying that illness or victimization will never happen to us. We must take responsibility for ourselves and for our actions. This means being honest about our behaviours which put us at risk. It means changing those behaviours where they are a threat to ourselves and others.

The gift of honesty must always be tempered with the gift of kindness.

The third gift...the gift of the West...is that of sharing. Just as the plants and animals shared with man their existence so that we may live, so does man have an obligation to share with others. We must share what we have and share of ourselves so we may all collectively survive. We hope to promote the sharing of ideas, resources and information so that as a people and as nations we can ensure the preservation of the aboriginal people, the aboriginal nations and Canada.

The fourth and final gift comes from the North. It is the gift of strength. This gift gives us the ability to endure. Shared, it is a gift which helps others endure and be strong in the face of adversity.

We hope that by developing a strategy which is built on the gifts of the creator and the values of our people, we will have a strategy which is strong...a strategy which will serve and protect all of us from the very real and serious threats which are posed to our people and people everywhere¹.

This report reflects both the hope and aspirations of Canadians for the realization of this vision.

¹ Song titled "The Greatest Love of All", sung by Whitney Houston, written by Masser and Creed.

¹ Cathie Bruyère, publishing editor at Federal AIDS Centre in Ottawa, in a speech to an AIDS conference in Montreal, June, 1989.

Reaching for Solutions

The time was never more ripe for significant progress. After my experiences of the past two years, I have developed some very strong impressions. I feel a great sense of urgency that the issues surrounding the sexual abuse of children need concerted action now by all levels of government. The sooner the better. The anguish of victims and adult survivors must be recognized and accepted and their needs must be met in a co-ordinated manner. Further, I believe prevention, both in terms of changing attitudes and behaviour and through the treatment of current offenders, is of paramount importance if the negative consequences of child sexual abuse are to be contained and ultimately reduced in society.

It is important to recognize the substantial advances that have been made in Canada over the past eight years in combating child sexual abuse.

The federal government, the provinces and territories, the voluntary sector, and local communities have all taken substantial initiatives to improve the plight of children.

These include special funding programs, new research and resource materials, new community-based projects, new protocols, amendments to the Criminal Code, the Canada Evidence Act, and provincial/territorial child protection laws. Initiatives also include increased funding for front-line services, new programs for gaps in services, public awareness programs, child safety programs in schools and many new training programs for front-line staff.

The momentum of the increased awareness about the problem, as well as these new initiatives, is pronounced. Our governments in Canada have become increasingly responsive to the problem of child sexual abuse. Many of the recommendations in this report reinforce initiatives that have already been started or are in the planning stages. The report should be viewed as reinforcing the importance of this activity. At the same time, the enormity of the problem is also growing with more and more disclosures and the realization that cases are complex and demanding and are beyond our present capacities. As more and more adult survivors recount their experiences and demand both justice and treatment, we are realizing that new

initiatives are being outstripped and that our front-line systems are being overwhelmed. The reality is that much more needs to be done.

This report takes a comprehensive approach and identifies a variety of initiatives for several jurisdictions over a five- to seven-year period. These are identified in Chapter 10, Stages of Implementation.

There are, however, significant themes running throughout the report that underpin the individual recommendations. These are the priority themes, which are the most vital to the future.

Priority Themes

- There is need for a Responsibility Centre for Children to be established in the federal government. This is important for maintaining a continuing focus on children's issues, as well as for providing a vehicle for ongoing planning and collaboration with provincial/territorial governments, interdepartmental co-ordination within the federal government and co-operation with the voluntary sectors and professional groups.
- Improved co-ordination of present government and non-governmental systems is crucial for improvements in delivery of service at the provincial/territorial and local levels. While national, provincial/territorial strategies and initiatives are crucial, they must be focused on solving the problems at the local level since each abused child lives in a specific locality, and must have services provided in a co-ordinated, sensitive fashion. The reduction of turf barriers and competition between systems through consultation can lead to improved planning, better services to clients and better use of current resources.
- Improvements to the long-range socialization of children regarding gender roles, power relationships and attitudes toward sexuality are crucial agendas in order to address the underlying causes of child sexual assaults and child sexual abuse.
- New resources are needed for front-line service activity. This will require a federal/provincial/territorial cost-sharing program to enable the provinces/

territories to deal with critical gaps in service, as well as with the current overload on front-line services. These services include investigation, prosecution, healing and treatment, and public education.

- Increased ongoing education and training activity for front-line staff and supervisors is critical. Multi-disciplinary training is required at the local level where interprofessional co-operation is essential. Generic professional training is now inadequate as a result of the new knowledge and insights that are now known about child sexual abuse.
- The criminal justice system is an important lever in our society both to deter child sexual abuse and to aid in the treatment of sexual offenders. The power of this system needs to be used to benefit and protect children. There has been progress in this area, but much remains to be done.
- There are a variety of resource persons across Canada who can make an immense contribution to resolving issues that are baffling or are still emerging; they can provide the cutting edge to deal with emerging issues, research and information sharing. These experts should be encouraged to apply their expertise through a system of advisory or federal/provincial/territorial committees.

Children Are Hurting: The Dimensions of Child Sexual Abuse in Canada

Sexual Abuse of Children Is a Symptom of Underlying Problems in Society

Some children have been misused and abused by their families and by society for centuries. We must increase our efforts to confront the terrible truths about the victimization of

Voices

The undervaluing of children, along with the exploitation of their vulnerability, have been selected as the problem statements from which we are to work. Before we proceed to select strategies, I urge us to be very, very sure we've got the problem right. Is the undervaluing of children the problem, or is it a symptom of the problem? Are children abused because of their vulnerability, or because of the invulnerability of their abusers? These are not theoretical questions. The power to define the problem is the power to control the agenda. If we fail to get the problem right, our solutions are necessarily doomed to fail.

Heather-jane Robertson
Member
Canadian Teachers Federation
Speaking at the National Strategy
Workshop on Child Sexual Abuse
Ottawa, 1989

children and redress the abuses of generations. However, to rush into corrective action without a thorough analysis of the social, economic and political underpinnings of abuse would be foolhardy.

A long-term and effective response to the sexual abuse of children demands that we address deeply rooted contributing factors in our society. We must challenge patriarchal values that allow the more powerful to exploit the less powerful. Too many families are isolated from community supports. Too many male and female children are socialized to continue the same destructive and violent behaviours used by their parents.

The Gender Dimensions of Child Sexual Abuse

There are very clear gender dimensions to child sexual abuse. In well over 90% of reported cases of sexual abuse, the offenders are men. When women are involved, it is often because they are forced or encouraged to abuse by men. The Badgley committee found that 98.8% of offenders were male and 1.2% were female¹.

Our society continues to evolve from a value system that placed men in the dominant role and women and children in a subordinate role. Remnants of this pervasive value system are still evident and have a tremendous impact on the quality of family life. If the family experience is to be constructive and positive for children, a reorientation of thinking about male and female identity and roles is essential.

Sexual stereotyping for males and females in our culture is long-standing and deeply

1 Badgley Report, p. 215.

rooted. It is a disservice to our society, leading us to many negative attitudes and actions.

Social attitudes that view women and children as sexual objects and blame the victim who is sexually harassed or assaulted continue to be a norm in our culture. When cases of sexual assault are before the courts, the preoccupation often seems to be with questions of use of force, possible enticement by the victim, and the moral character of the victim and the like, rather than on the basic responsibility and accountability of the perpetrator for his behaviour. There is a tendency to discount the seriousness of a perpetrator's behaviour, especially if little physical violence is involved or the assault takes place in the family¹. The victims, even children, are made to feel somehow responsible for their own victimization. These attitudes, which are prevalent throughout society including professionals and the courts, seriously undermine achieving a society in which females and males are treated equally.

Most research studies and literature reviews do not provide extensive information about the prevalence of sexual abuse of male children. The view was expressed several times during the consultations of the Special Advisor that male child victimization is hidden and that disclosure seems to be more difficult for boys, particularly when the abuse was carried out by family members or friends of the family.

The Prevalence of Sexual Abuse

The Badgley report found that every Canadian child is at risk of being sexually abused. The report considered various measures of sexual abuse, including police, hospital and child protection statistics. It concluded that all these services vastly underreported the incidence of abuse. The truth of this conclusion is supported by the enormous increase in official reports since the time the Badgley committee collected its data. Perhaps the most revealing information collected by the Badgley committee was from the National Population Survey, a

random sample of over 2000 adults who were questioned about whether they had ever been the victim of an unwanted sexual act. Just about one-third of the males and just over one-half of the females reported that they had been the victim of at least one unwanted sexual act. Over four-fifths of these incidents occurred were before the victim reached adulthood.

It should be appreciated that while a high portion of our population has been victimized, the percentage of abusers is relatively low. While some abusers, particularly in incestual situations, may have only one victim, even in this context it is common for several siblings to be abused by one perpetrator. Studies of extrafamilial abusers indicate that some paedophiles may have several hundred victims each.

The definitions of "unwanted sexual act" and "sexual abuse" as used by Badgley are quite broad. The term "unwanted sexual act" as used by Badgley included sexual exposure, threatened sexual assault, unwanted sexual activity, including kissing and fondling, and attempted or actual anal or vaginal penetration. According to the National Population Survey data, 14.8% of all respondents were victims of exposure, 7.8% were victims of threats of numerous sexual acts, 18.1% were victims of unwanted sexual fondling, and 16.3% were victims of attempted or actual penetration.

Even using a very narrow definition of sexual abuse, it is clear that hundreds of thousands of Canadian children have been the victims of sexual abuse. The Badgley committee found in the National Population Survey that 2.8% of Canadian females had been the victims of rape – that is, unwanted vaginal penetration by a penis – at least once and that more than three-quarters of them were victimized under the age of 18. The Badgley study also found that 2.1% of the population, male and female, were the victims of unwanted anal penetration or an attempt at such penetration; again, most of these attempts occurred when the victims were under the age of 18. The National Population Survey indicated that only in a small proportion of these cases were reports made to a public service such as a hospital, police or child protection services.

It should be appreciated that even less physically intrusive forms of sexual abuse can have severe long-term effects. Many children are highly traumatized by acts of fondling, especially when they occur repeatedly and are perpetrated by individuals in a position of trust.

1 Patricia Marshall, "Sexual Assault, the Charter and Sentencing Report," *Criminal Reports* 63(3): 216-35.

It must, however, be understood that the term "sexual abuse" does not have a precise definition, and different researchers, studies, statistics and practitioners use the same term in different ways.

Sexual abuse, as the term is used in this report, is the misuse of power by someone who is in authority over a child for the purposes of exploiting a child for sexual gratification. It includes incest, sexual molestation, sexual assault and the exploitation of the child for pornography or prostitution.

The Badgley report¹ also examined available data about the ages of children who have been victims. The findings underscore the fact that very young female and male victims under the age of seven have been sexually assaulted at very high rates, although the population group that consistently figures most prominently in child sexual abuse data is children aged seven to eleven years.

A survey² by Christopher R. Bagley of the University of Calgary confirmed the earlier findings of the Badgley committee and also commented on the involvement of adolescents:

Two findings from the National Survey deserve comment and interpretation, since they have some implications for current policy formation. These findings relate to teenagers as victims, and as assailants. According to the National Survey, the majority of underage victims (both male and female) were aged between 13 and 16, and rates of victimization were also greatest in this age group. This finding has a number of implications for prevention strategies, including educational programs addressed to both potential victims and potential abusers. The survey data also show that some 30% of the assailants of both sexes are under 18.

Reported Cases

The only official statistics kept in Canada pertaining to child abuse are maintained by provincial and territorial governments and their agencies. Because we do not have national

compilations and because each agency and jurisdiction has a different way of receiving and recording such information, it is impossible at present to develop accurate national data.

During the process of the consultations of the Special Advisor, it was indicated that the number of cases reported over the past five years has increased substantially. In large part, this must reflect increased public awareness and the increasing number of disclosures by adult survivors. It may also reflect the changing social reality in Canada, such as increased family stress and breakdown as well as an increased insistence that the rights of the vulnerable be protected and valued.

For the reasons cited above, it would be inaccurate to attempt a detailed comparable analysis of these statistics, but they are of interest in indicating a trend. For example, the Ontario Child Abuse Registry recorded an increase from 249 reported cases of sexual abuse in 1980 to 1628 reported cases in 1986. During the same period, reports of physical abuse remained relatively constant. The province of New Brunswick indicated a 622% increase of reported cases of child sexual abuse over the four-year period between 1983 and 1987. The Nova Scotia Child Abuse Register logged only six cases of sexual abuse in 1982, of which three victims were males and three were females. By 1986, the same register showed that 133 females and 32 males were victimized sexually, and another six reports of physical and emotional abuse also included sexual abuse.

The Impact of Child Sexual Abuse

Child sexual abuse brings about a broad and complex range of effects, which vary from individual to individual and may continue throughout a lifetime.

Some of the factors that may affect the long-term psychological harm to victims include the degree of force, the age of the child, the nature and duration of the abuse, the relationship of the child with the abuser and the nature of any subsequent therapeutic intervention.

Most children who are the victims of a single incident of exposure or unwanted fondling committed by a stranger are unlikely to need long-term therapeutic assistance. On the other hand, children who have been victims of

1 Badgley Report, p. 198-99.

2 Christopher R. Bagley, "Child Sexual Abuse in Canada: Further Analysis of the 1983 National Survey" (Ottawa: Health and Welfare Canada, 1987), p. 38.

incestuous sexual activity over an extended period of time are much more likely to be severely traumatized and to be in need of long-term assistance.

A brief prepared for the Ontario Select Committee on Education reported on the long-term effects of childhood sexual abuse, using a definition of abuse that was apparently restricted to fondling and penetration:

Numerous studies have documented the short- and long-term effects of sexual and other forms of abuse. In the short term, victims often suffer intense anguish, fear, a deep sense of helplessness and betrayal. The trauma of abuse interferes dramatically and often irreparably with the emotional, physical, and intellectual development of a child. The long-term effects are equally disturbing.

Dr. Vail Williams has found that of adult patients sexually abused as children, 22% had multiple personalities, 95% had a poor self-image, 58% were non-sexual, and 84% had attempted suicide. Other studies have established correlation between child sexual abuse and learning disabilities, drug/alcohol abuse, prostitution, runaway children, dysfunctional relationships, and crime¹.

A Pervasive Social Problem

Two factors in particular have led to increased public and professional attention to this matter. The first was the impact of the women's movement in the 1960s and early 1970s and with it the declarations of women adult survivors. The second was provincial child abuse legislation, which was first enacted in Canada in the mid-1960s. As the number of reports increases, public and professional awareness also grows.

Evidence of the widespread nature of the problem is provided by the growing numbers of adolescent and adult survivors who are seeking treatment. Survivors regularly report that they did not reveal their sexual abuse as children. This confirms the low reporting figures that have been typical of past decades.

1 C.C. Stewart, *Brief to the Select Committee on Education: Philosophy and Goals of Education* (Toronto: Metro Action Committee on Public Violence Against Women and Children, July 1988).

Multiple Victims, Multiple Offenders and Ritual Abuse

Investigators and the courts have started to see more cases involving multiple victims, multiple offenders and, in some situations, ritual abuse as well. The Newfoundland inquiry into abuse at the Mount Cashel Orphanage is a demonstration of the complexity of issues that can arise when there are multiple victims and offenders, although of course this situation does not involve ritual abuse. There is a need for particular sensitivity and sophistication in investigating this type of case.

Even more difficult than the cases involving multiple victims and offenders are those in which there is also evidence of ritual abuse. It is apparent that certain cults make the ritual abuse of children a part of their activities, after making horrific threats to the children to ensure their secrecy. Further, children have difficulty in providing a meaningful description of events that appear bizarre and far from the range of ordinary human experience. All this makes investigation particularly difficult in cases where there is an allegation of ritual abuse. Social workers, therapists, police officers and Crown Attorneys are increasingly confronted with horrifying evidence of ritual abuse. Cases often involve young children (under six years). Recent initiatives by professionals in the field with the support of the Institute for the Prevention of Child Abuse in Toronto and the Council on Mind Abuse (COMA) have been exploring the problem of ritual abuse more carefully.

Sexually Transmitted Diseases (STDs) in Children and Youth

An urgent recommendation of the Badgley report was that a nationally accepted protocol be established regarding the diagnosis, examination procedures, and treatment of sexually transmitted diseases in children. Health and Welfare Canada, in conjunction with the Canadian Paediatric Association, has completed this task, and the guidelines are available to

health professionals across Canada¹. These guidelines were prepared under the direction of an expert interdisciplinary Advisory Committee on Sexually Transmitted Diseases in Children and Youth, chaired by Dr. Barbara Romanowski of Alberta. This is an important resource because child sexual abuse victims sometimes show symptoms of various STDs. Particularly with early detection, treatment can be and usually is effective. This same committee has produced two supplements in 1989².

AIDS Threat

AIDS has emerged as a growing threat to our future and still has no cure. It also poses a major new threat for children in Canada. Street kids are the first to suffer because of their need to survive by dealing in drugs and by being forced into juvenile prostitution. Particularly in communities where child sexual abuse is extensive and indiscriminate, children are at risk.

Among offenders whose behaviour is compulsive and repetitive, it is only a matter of time before the AIDS infection will appear. It is urgent that planning take place now in anticipation of a possible social disaster.

Study of this threat has now been initiated in several parts of Canada. The Special Advisor is aware of one major conference on the subject of children and AIDS organized by the Québec Comité de la protection de la Jeunesse and McGill University.

Child Deaths

Voices

In our community a three-month-old baby recently suffocated to death swallowing semen. What are we going to do for these children?

A Canadian Mother
Ottawa, 1989

It is hard for some to understand how the sexual abuse of children can lead to death. A recent Ottawa case involving the sexual abuse and death of an infant shocked the entire community. While initial reports were that the baby died of strangulation, autopsy reports indicated asphyxiation because of sexual abuse. This tragedy, which occurred within 48 hours of the Special Advisor's Reaching For Solutions Workshop in May 1989, underlined how important it is to carefully scrutinize all child deaths and to identify the causes. This issue is dealt with more fully in Chapter 5 on Child Sexual Abuse and the Justice System.

1 Health and Welfare Canada, "1988 Canadian Guidelines for the Treatment of Sexually Transmitted Diseases in Neonates, Children, Adolescents and Adults", (Ottawa, Health and Welfare Canada, April 1988).

2 Health and Welfare Canada, "1989 Canadian Guidelines for Health Care Providers for the Examination of Children Suspected To Have Been Sexually Abused" and "1989 Canadian Guidelines for Diagnosis and Management of Sexually Transmitted Diseases by Syndrome in Children, Adolescents and Adults" (Ottawa: Health and Welfare Canada, 1989).

Female victims younger than age 16 reported in:

Age	National Population Survey	National Police Force Survey	National Hospital Survey	National Child Protection Survey
	(%)			
Under 7 years	9.2	17.9	27.1	22.0
7-11 years	29.4	29.1	34.9	39.9
12-13 years	24.8	20.7	15.9	21.6
14-15 years	36.6	32.3	22.1	16.5
Total	100.0	100.0	100.0	100.0

Source: Badgley Report, p. 198.

Male victims younger than age 16 reported in:

Age	National Population Survey	National Police Force Survey	National Hospital Survey	National Child Protection Survey
	(%)			
Under 7 years	11.9	29.0	28.3	38.0
7-11 years	27.1	38.5	46.3	32.0
12-13 years	25.4	14.2	20.9	18.0
14-15 years	35.6	18.3	4.5	12.0
Total	100.0	100.0	100.0	100.0

Source: Badgley Report, p. 199.

Systems: In Search of Harmony and Effectiveness

Government Systems: Systems Under Intense Pressure

The Risk of Structures

I write this chapter with very mixed emotions. The prospects of adding new structures or otherwise adding to the overhead of our current system is a frightening idea, particularly when resources are desperately needed at the front line.

I believe several factors outweigh the risks of new strategies, and these benefits have prevailed in my thinking. They can be summarized as follows:

- There is a need for an ongoing responsibility centre within the federal government related to children's issues. There is little likelihood of diligent, persistent efforts to deal with children's issues on a continuing basis without an accountability to do so. It is vitally important that consultation be improved between the federal and provincial/territorial governments concerning these issues, and this will be greatly facilitated by having some systemic restructuring.
- The experts in the field and the non-governmental sector must be assisted to make their contribution. By assisting them to work together on key issues, to improve strategies at the local level and to use their expertise to improve services, governments can ensure a much more effective use of human and financial resources.
- Multidisciplinary training is a crucial requirement for human resource development. It has to be available on a regional

basis and sustained on a continuing basis so that front-line workers are adequately supported.

- Finally, there is an urgent need to address the resource issue with a systematic strategy.

With all of these factors in mind, I have proposed a number of structural initiatives. I trust that experienced political leaders, professionals and government officials may be able to use these proposals in a creative way to help enhance the well-being of children in Canada and to combat child sexual abuse.

A real danger in recommending the establishment of structures, task forces and the like is that they may make little or no difference to improving front-line realities. The worst thing that could happen with this report is that new mechanisms are established, but that they don't change anything. It is my fervent hope that every structure is measured for impact on front-line realities and that inadequate or impotent structures are discarded or changed.

My belief is that, for significant advances to be made in dealing with child sexual abuse in Canada, governments must create an overall framework for setting priorities and establishing mechanisms to provide for co-ordinated action across all relevant government departments.

Individual caregivers, government departments and programs can do, and are doing, many good things. However, without firm leadership and support from the most senior levels in government, little significant advance can be sustained. The need for greater co-ordination was thoroughly documented in the Badgley report. Some of initiatives proposed in that report are being actively implemented¹, but

¹ See Appendix B: Overview of the Federal Government's Response to the Badgley Report.

all levels of government must do a better job of providing leadership and co-ordination.

The subject of co-ordination was addressed in a discussion paper, written for a Special Committee of the British Columbia School Trustees Association in 1987, along with representatives of the Society for Children and Youth, the Justice Institute and the United Way, that addresses mechanisms to co-ordinate child abuse activities:

*As noted in the **Shorter Oxford Dictionary**, the intransitive definition of "co-ordinate" is "to act in combined order for the production of a particular result," while the transitive meaning is "to place [things] in a proper position relative to each other and to the system of which they form parts." When we talk about co-ordinating efforts to both prevent and deal with the consequences of child abuse, everyone stresses their belief in the intransitive, meaning "harmonious combination of agents or functions towards the product of a result." By contrast, there are private misgivings about the transitive sense; who exactly is going to decide your "proper place" in the system? **Co-ordination requires negotiation about power sharing**¹.*

I have been impressed with many individual government officials from a range of departments with regard to their comprehension of the problems and their desire to move ahead. There are excellent initiatives under way but, without some major changes in organization and attitudes, there will be only limited progress. There are major difficulties in achieving co-operation and co-ordination between ministries. Power sharing needs to be negotiated. Co-ordination is a significant leadership issue that requires initiative from the senior levels of all service systems.

Government departments tend to have a "corporate culture" that has grown up over the years. This culture significantly affects how problems and services are looked at, as well as which ones have lower priority. Boundaries are set for each ministry and its various departments. Compounding the problems of any large

system that tends to be heavily influenced by its traditions is the difficulty of quickly confronting highly volatile, rapidly changing complex social problems.

The report of the Auditor General of Canada notes:

The challenge for the designer of organizations and of work itself, therefore, is to not rely on controls exclusively. It is to design organizations, structures and job content in such a way that controls are seen as useful tools and that people can commit to achievement of worthwhile organizational objectives. Where ineffective bureaucracies focus mainly on controls and constraints, the well-performing organizations focus on people. They challenge, empower and develop their people; they communicate effectively with them, and they open the way for them to become and remain successful at work. The well-performing organizations seem to have been able to combine the needs of the organizations with the needs and desires of their people. They have made a shift from control to commitment¹.

Current Realities

The complexity of child sexual abuse, along with the increasing number of reported cases of child sexual abuse, is straining every part of front-line systems. Increases in caseloads have been so rapid that there has been little time to adjust systems, increase capacity, implement new service requirements, and assess the significance of the continuous strains on the service delivery system. Furthermore, increasing pressures on governments for fiscal restraint have forced some departments to limit and even to reduce services.

The 1985-86 annual report of the Department of Health and Social Services of the province of Prince Edward Island, observed:

Last year's annual report indicated that Children's Services programs were facing two difficult trends:

1. *a steady increase in referrals of sexual and physical abuse; and*

¹ Andy Wachtel, *Harmonious Combination* (Vancouver: British Columbia School Trustees Association, 1987), p. 1.

¹ Ken Dye, *Report of the Auditor General of Canada* (Ottawa: Supply and Services Canada, March 31, 1988), article 4.50.

2. *an increase in the complexity of these new cases.*

These two trends continue to place heavy stress on our capacity to provide adequate services, and increasingly raise the question of whether or not we are falling short of our legal mandate in this area¹.

This kind of pressure is typical. Most services are delivered through the provinces and territories. However, there are significant policing services, health services on reserves, and various services in the territories that are administered by the federal government. Thus the federal government also faces the same kind of pressures in delivery of service, as do provincial/territorial governments.

In this atmosphere of crisis management, with too many cases to handle, high turnover of front-line staff and constant budget limitations, it is difficult for senior managers to analyse how systems may need to be modified and how the corporate culture may need to be changed. Above all, it is essential that we consider how to overhaul systems and priorities so that children receive comprehensive and integrated service, irrespective of jurisdictional boundaries and resource limitations.

The number of cases reported, although still only a portion of all cases of abuse as noted, are already straining every front-line system to the point of overload. This includes child care, investigations, police, hospital, medical teams, Crown Attorneys and the court system. Treatment capacity is limited or virtually non-existent in northern and rural communities. Insufficient resources to address the issue are cited as a problem everywhere. With so many professional and government jurisdictions involved, there is still only partial experience with formalized attempts to co-ordinate services and functions at the community level and to provide a comprehensive, effective service delivery system for children and families in distress. The systems issue is gaining priority in many government departments and is seen increasingly as of importance equal to the question of more resources.

Voices

Similarly, we found that the staff in a well-performing organization have a clear sense of mission. There is a feeling of ownership, of shared values and a common vision. The team spirit seems to be a key ingredient of the organization's culture¹.

One of the Deputy Ministers told us about posing a challenge to his various branches, after he was appointed, to improve on what they were doing. The response in most cases was that they would try to do better, but that additional resources would be required. One branch, which participated in this study, provided an exception to that general response. Its leaders consulted with their people and found new and better ways, with the same resources, to provide products and services to their clients².

Effective Communication and Power Sharing

Front-line workers who are exposed daily to the tragedy of child sexual abuse have important and relevant information to share with senior managers. They know where there are gaps in service and where they are being stretched to the point of inefficiency. They need to be able to communicate this information to those who set policy and make recommendations for spending. However, it is difficult for front-line staff to communicate upward. This places a particular responsibility on senior management in all systems to find ways to become better informed by the front-line staff and to keep pace with developments so that decisions on policy are both consistent and relevant to what is happening in the community.

It is not a new phenomenon for governments to experience difficulties in co-ordinating systems. In Quebec, the Rochon Commission of

1 Prince Edward Island, Department of Health and Social Services, *Annual Report 1985-86*, (Charlottetown, P.E.I.: 1986).

1 Dye, *Report of the Auditor General*, article 4.65.

2 Dye, *Report of the Auditor General*, article 4.92.

Inquiry on Health and Social Services, identifies the following issues:

Planning in matters of health and social services has been almost completely separated from the allocation of resources. Evaluation is almost non-existent or limited to inputs and process. Controls are ponderous and sketchy.... The Commission has also noticed that confusion as to the missions of establishments and organizations has led to overlapping and the creation of barriers, all of which has not led to attaining desired results¹.

Further, the commission writes:

Community organizations are playing an even more important role in matters of health and welfare. We recognize more and more the merit potential of "natural networks" and organization based on the community....

The Commission feels that if we want to encourage this movement [toward community-based organizations], certain substantial changes must be made. Explicit recognition of the contribution of the community organizations should be manifested by adequate mechanisms of financing, by a respect for their autonomy and by the establishment of co-operation between the public network and the community resources².

This analysis is the same as my own.

Across Canada, government systems generally have difficulty implementing effective partnership arrangements with community-based groups. There seem to be major gaps in mutual understanding and problems related to attitudes of control and trust.

If all the resources available, both government and non-governmental, are to be fully utilized in tackling social problems, there will have to be significant changes in attitude in both sectors about the importance of government and non-governmental partnering.

Co-ordination of Resources

A pattern that seems to be growing and that may provide leverage for a more active

1 Government of Quebec, *Quebec's System of Health and Social Services*, (Quebec, 1985).

2 Quebec, *Quebec's System of Health and Social Services*, 1985.

policy role by social services ministries is the tendency for management committees or cabinets to insist that proposals related to services for children represent the combined thinking of several ministries and that they carry a shared strategy for implementation. Until recently, each ministry would develop its own initiatives for presentation to Cabinet. It is now recognized that a collaborative effort is required. This pattern has emerged at the federal level, as well as in the provinces and territories.

Because services must be delivered at the local level, it is crucial that local governments also be involved to lend their support to the development of effective networks. Municipal, regional and native government involvement seems to be underutilized at present.

Leadership for Co-ordination

The Special Advisor has observed a marked increase in co-ordination initiatives both at the provincial/territorial level of government and at the federal level. The Senior Interdepartmental Steering Committee on Family Violence at the federal level has greatly increased collaboration among federal departments. These mechanisms tend to improve communication, trust, co-operation and focused leadership. This suggests that the stage may be set for an unprecedented era of shared leadership among ministries.

Social issues such as the sexual abuse of children cannot be tackled effectively without the combined efforts of all relevant government ministries at both the federal and provincial/territorial levels, as well as strong participation and co-ordination by the community sector. This requires a leadership structure involving senior levels of various jurisdictions.

A Model for Action

A model for government action should include the following elements:

- a common definition of the problem and a common mandate for action;
- leadership in each department and ministry with a strong sense of service and recognition for the needs of clients as well as financial management skills;

- a vision of needs for the future and a strong sense of direction and commitment to move toward an improved future based on front-line realities; and
- a minimum of jurisdictional disputes so that goodwill, determination and a willingness to collaborate with other ministries in the interests of providing comprehensive and integrated service become pervasive, with senior management setting the spirit and tone of collaboration and conveying this throughout the system.

Federal Initiatives

The federal government has a critical role in leading a national effort:

- to enhance the well-being of children in Canada;
- to address the long-term issues related to child sexual abuse;
- to foster co-ordination among all sectors;
- to support the development of a sound knowledge base; and
- to financially assist other governments and sectors to mobilize a total community response.

The federal government provides some services directly to victims and offenders. For example, it is responsible for providing correctional and rehabilitation services for offenders serving sentences of two years or more, and also has certain responsibilities for the provision of health and social services to Status Indians who reside on reserves. However, much of the federal government's responsibility for dealing with child sexual abuse is outside the area of direct service provision. It lies in such areas as creating a legal framework for the trained prosecution of offenders, facilitating research and the communication of knowledge, providing financial and other support to the provincial/territorial and non-government agencies with direct responsibility for provision of services to victims, offenders and families, and providing leadership for the creation of a rational climate in which the abuse of children will be effectively contained¹.

1 A description of the functions and responsibilities of the federal government in regard to child sexual abuse is found in Appendix A: Roles and Responsibilities of Federal and Provincial Governments.

A Federal Structure for Children's Issues: The Children's Bureau

In addition to many individual program initiatives that are proposed in this report, it is also recommended that a series of structural initiatives be taken at the federal level to ensure a long-range and continuing focus on various children's issues.

The Badgley committee report recommended that a Children's Commissioner be appointed to provide focus within the federal government. It was recommended that the Commissioner would report directly to the Office of the Prime Minister. The independence of such an office, which would report at least annually to Parliament, makes it an attractive suggestion. The Commissioner model is well known in Canada. There are at present five commissioners in Ottawa, each with independent staff and a specific legislative mandate.

The Children's Commissioner concept has attractive features, particularly that it would be independent and would have a mandate to maintain a continuing focus on children. By tabling an annual report with Parliament, it would be possible to present a significant overview of issues and developments. It is difficult to envision, however, as an office that is operationally separate from federal government departments, how the commissioner could have a day-to-day impact on various federal government departments in such a way that performance and co-ordination would be significantly improved.

Another weakness of the commissioner model is that a Children's Commissioner would not be easily positioned to initiate and maintain ongoing consultations with provinces and territories, and this is a vital area. Operationally, ongoing federal and provincial/territorial consultations take place most easily between internal government departments. A commissioner's office, which is outside the federal department, is likely to have difficulty in this regard.

Children's issues and related services are areas of responsibility within various government departments. A crucial requirement related to children's services is effective federal and provincial/territorial dialogue, negotiation,

consultation, planning and cost-sharing. These are continuing interdepartmental agendas. What is needed is an internal mechanism with responsibility to provide leadership and co-ordination within the federal government for children's services and also to provide leadership in relations with provincial/territorial governments. The Badgley committee emphasized the need for federal leadership and co-ordination.

With all of this in mind, it is recommended that the federal responsibility centre for children be created within Health and Welfare Canada. This recommendation has the further advantage of utilizing a reorganization of current resources within the government, rather than creating an entirely new organization. Some new personnel may be needed because of the further recommendation that a significant number of the staff of this proposed new Children's Bureau have expertise in the children's field and not simply be reassigned from other public service duties.

In the opinion of the Special Advisor, failure to establish an adequate responsibility centre for children's issues within the federal government will make it very difficult, and perhaps impossible, to implement the continuing work necessary to significantly advance an agenda for dealing with child sexual abuse.

Many of the specific recommendations of this report are predicated on the basis that there will be a responsibility centre with a mandate to pursue them.

Think Globally – Act Locally

In effect, we need to *think* globally in relation to child sexual abuse so that our frames of reference are as adequate as possible but, at the same time, we must *act* locally. All of our resource efforts and infrastructure initiatives must be seen as contributing to local effectiveness. While our problems are national in dimension, each abused child lives in a single place, and it is ultimately at the local level that there must be adequate, co-ordinated provision of service.

Parallel Initiatives

I am convinced that, although child sexual abuse is an enormous problem and a complicated one, it is possible to break it down into several manageable components. Further, we need to commit to a 20-year program if we want to substantially reduce the incidence of child sexual abuse in Canada.

This report outlines the need for several parallel initiatives among many sectors, including the following:

- commitment by governments to make better use of current resources through some restructuring combined with better co-ordination of all the jurisdictions involved;
- new cost-sharing programs to cover the gaps in current cost-sharing programs to meet the unique needs related to child sexual abuse;
- more resources for front-line services;
- a commitment whereby every structure that is set up is designed to improve services on the front line;
- commitment by the non-government sectors, including services, advocacy coalitions, professional associations and professional schools, to share ownership at a community level for reducing and eliminating child sexual abuse, because there must be improved co-operation and a more mutual effort among the non-governmental sectors;
- a commitment to adequately train professionals and volunteers so personnel in all sectors are competent to deal with child sexual abuse; and
- an understanding and commitment by all parties that the roots of child sexual abuse have to do with inadequate gender socialization, sexual stereotyping and power imbalances in human relationships.

The Scope of System Responsibilities

Recommendations 1, 2, 3 and 5 propose mechanisms that are directed to children's well-being in broad terms, and are visualized as long-term developments. In the long view we want to enhance the well-being of children in our society.

Recommendations 4, 6, 7, 8, 9, 10, 11, 12 and 13 each encompass all aspects of child abuse in order to build up a comprehensive approach. It is important to recognize that *child sexual abuse* should be a major emphasis within this framework for the next 10 years at least, so that we do not lose sight of this priority area. At least every five years, the structures need to be reviewed to see if changes in focus and/or format may be appropriate.

Because the issue of child sexual abuse involves the mandates and responsibilities of so many government jurisdictions, professions, professional schools, and community-based organizations, an urgent appeal is made to all parties to work together with every effort to overcome jurisdictional barriers.

Recommendation 1

That the Minister of National Health and Welfare be designated as the minister responsible for children (in this context, the United Nations definition of "children" is used, whereby children are defined as persons under 18 years of age).

This recommendation would ensure that the minister responsible for children is a senior minister. This is viewed as preferable to naming a separate minister who would carry a junior portfolio. It would also be more cost-efficient to designate a current senior minister rather than to create a new portfolio.

The minister, as the minister responsible for children, should confer regularly with other federal ministers, including the Minister of Finance, to study specific impacts of government policies, including fiscal policy, on the well-being of children and families.

It will be important for the minister to initiate and maintain a process within the federal government to ensure the strengthening of families as nurturing centres to provide adequate social and emotional development experiences.

Among the crucial items of importance to support families are:

- the family allowance program;
- the child tax credit;
- child care;
- issues of pay equity;
- the provision of a minimum annual income for poor families;

- policies to ensure the availability of adequate levels of affordable housing;
- the extension of paid parenting leaves; and
- enhanced support to families with developmentally, mentally or physically disabled children.

Recommendation 2

That Health and Welfare Canada establish a Children's Bureau within the department, with a specific mandate and function as the responsibility centre within the federal government for a broad range of children's interests to include:

- serving as the leadership centre for child-centredness within the federal government;
- combating child abuse, including the operation of a national resource centre for child abuse;
- children growing up in poverty;
- federal daycare concerns;
- the implementation in Canada of the *United Nations Convention on the Rights of the Child*; and
- the responsibility to examine Cabinet documents prepared by federal government departments for their potential impact on the well-being of children.

The Children's Bureau should:

- serve as a resource body to other federal ministries responsible for issues affecting young offenders, aboriginal children, institutionalized children, children in care, disabled children, juvenile prostitutes, and victims of child pornography and child sexual abuse;
- convene regular meetings of inter-departmental representatives related to children's issues;
- serve as a resource regarding appropriate legislation, policy and administrative reforms related to children's well-being in Canada;
- develop and maintain federal-provincial/territorial consultations related to the well-being of children and improvements in children's services on an ongoing basis;

- actively liaise with the Council of Ministers of Education and the national education associations regarding primary prevention strategies to enhance children's well-being;
- develop and maintain consultation with the voluntary and private sectors related to the well-being of children in Canada; and
- administer a funding program related to child advocacy in the non-governmental sector (see Recommendation 5).

With regard to its organization, the Children's Bureau should be headed by an Assistant Deputy Minister. The Assistant Deputy Minister, and at least some of the staff of the Children's Bureau, should be professionals with expertise and experience in children's services, including child abuse. It is crucial that the officials have adequate experience and credibility in the children's field in order that the Children's Bureau can function in a leadership role and have influence with the other sectors.

During recent years, it seems to have been a practice in setting up new departments or services in the federal government to second public officials from other departments. This can work well for administrative and general functions. However, the senior staff for the Children's Bureau must include professionals with expertise in the areas concerning children. If they are not currently available within the public service, professional experts should be recruited from outside the federal government.

Recommendation 3

That the Minister of National Health and Welfare recruit a member of his/her staff to serve in the field of children's services.

This staff member has a crucial role in maintaining ongoing contact with government officials of various departments, as well as the voluntary sector, to ensure that the minister has up-to-date information readily available related to children's issues.

The functions of the staff member should include:

- maintaining active liaison with those concerned about children's issues in Canada, including individuals and organizations,

and remaining accessible to this constituency, including those working in or concerned about the field of child abuse; working closely with the Children's Bureau and other departments of the federal government that are serving children's interest;

- maintaining liaison with regional resources centres and expert advisory committees in the child abuse field; and
- regularly briefing the minister and helping the minister monitor the effectiveness of the Children's Bureau and progress toward fulfillment of the *United Nations Convention on the Rights of the Child*.

Recommendation 4

That a National Resource Centre on Child Abuse, responsible to the Children's Bureau, be established by the federal government.

It was reinforced throughout my consultations that a comprehensive national information centre on all aspects of child abuse was viewed as essential. Governments, researchers, the media, community groups, professionals and individuals all expressed the need for readily available current information.

The following suggestions have emerged regarding the possible functions of such a National Resource Centre on Child Abuse:

- it should have a broad mandate to collect comprehensive information and material on child abuse, including literature, research studies, policy and service initiatives, training materials and other resource materials;
- it should be computer-linked to other resource centres, should have a toll-free number to facilitate broad access, and should be staffed by persons with expertise and experienced in the area of child abuse;
- it should incorporate the information base on child abuse contained in the Clearinghouse on Family Violence of Health and Welfare Canada as well as the National Victims Resource Centre in the Department of Justice;

- it should actively disseminate information about child abuse across Canada, particularly through resource centres operated by regional and provincial/territorial governments;
- it should publish a journal on child abuse developments, similar to the journal on Canada's mental health;
- it should assist regional resource centres with the development of training materials and programs;
- it should provide assistance to professional schools, community colleges and the Canadian Judicial Centre in developing materials and programs for education of a variety of professionals; and
- it should support and assist in the development of public education materials.

A small but highly experienced and knowledgeable staff in the field of child abuse will be needed to manage these functions.

The National Resource Centre on Child Abuse may be closely related to a broader information centre on aspects of family violence, but it is important that a distinct focus and information base related to child abuse be developed and maintained.

Non-Governmental Coalition Related to Child Advocacy

In addition to the need for internal structures within the federal government to promote the well-being of children and to confront the problems of child abuse, there is also a need for a strong non-governmental voice to advocate for the well-being of children.

Various groups in the non-governmental sector have expressed their desire to form a coalition to advocate for the enhancement of children in accordance with several premises:

- child sexual abuse must be addressed within the context of a long-term plan for children;
- child sexual abuse is recognized as being related to other problems in society and to the culture of our society; therefore a holistic approach to the development of a caring society is essential;

- actions must make a difference in local communities and front-line services if there is to be real change;
- the non-governmental community must show leadership and assume responsibility to help develop a caring society; and
- empowering the vulnerable to assume control over their own lives is essential to reduce the threat of victimization.

Because the non-governmental sector is widespread, it will take some time for the many interested organizations and groups to set up the fabric of a desired coalition. It is viewed as being inclusive of many groups committed to children's well-being.

The federal government needs to assist these groups in coming together for this purpose and to provide administrative and staff support to the emerging coalition. Once the coalition is functioning, its advocacy efforts in the community as a whole, using resources from the non-governmental sector, should be matched by funds from the federal government.

The coalition should confer on a regular basis with the minister responsible for children and with other ministers as appropriate and should report at least annually to the House of Commons Standing Committee on Health and Welfare. The coalition should maintain active liaison with the Children's Bureau. A well-developed coalition of this kind can provide invaluable assistance and perspective to the federal government in the development of long-range policies and legislation designed to enhance the well-being of children.

Recommendation 5

That the Minister of National Health and Welfare take steps to assist the development of a coalition in the non-governmental sector for the purpose of advocating for the well-being of children. Initially, funds should be provided for organizations to meet to develop the coalition, followed by an ongoing program to assist the non-governmental coalition to pursue a program to enhance the well-being of children.

Regional Resource Centres for Child Abuse Prevention

The establishment of Regional Resource Centres for Child Abuse Prevention, five to seven in number and located across Canada, can be an important way to provide ongoing support to caregivers in each part of Canada. As well as helping the professions, volunteers, governments and the public at large to increase understanding about child abuse, they can become a focal point in training, research and special expertise on the child abuse problem. The proposal suggests that the focus of Regional Resource Centres be on child abuse rather than on just child sexual abuse. The Institute for the Prevention of Child Abuse in Toronto, for example, deals with all aspects of child abuse, even though child sexual abuse is an important focus. This should be the same approach for the new structures; that is, a comprehensive framework, but with continuing attention to child sexual abuse.

The Regional Resource Centres should be viewed as a long-term investment in combating child abuse. They should, however, be evaluated on a regular basis to ensure that they are contributing to the improvement of front-line services. These centres may be extensions to existing institutes, training centres and the like to enhance existing bodies and services. Such an approach would also be cost-efficient, utilizing organizations and funds that are already being expended, but supplemented to add capacity and to deepen expertise. The Institute for the Prevention of Child Abuse in Toronto can provide information and guidance related to development, experience and costs. This approach also recognizes the regional realities of Canada and the wisdom of developing regional strength in addressing the problems of child abuse. It is proposed that the federal government provide initial resources to establish the Regional Resource Centres on Child Abuse Prevention and that ongoing support be shared by federal and provincial/territorial governments.

The selection of the Regional Resource Centres is an important process that will require leadership from the Children's Bureau, in co-operation with provincial/territorial governments and front-line service providers. Chapter 10 on Stages of Implementation makes

suggestions about the development of centres over a period of time. Appropriate criteria and a process of consultation will need to be established.

Each Regional Resource Centre will need to be governed by a board of directors. Federal and provincial/territorial representatives should be appointed to serve on the boards, in keeping with the financial support that is being provided. Close liaison between the Regional Resource Centre and the Children's Bureau is important, as is liaison with the appropriate provincial/territorial departments and the community.

Recommendation 6

That the Minister of National Health and Welfare authorize support for five to seven Regional Resource Centres for the Prevention of Child Abuse across Canada. Rather than establishing entirely new centres, these centres may be additions or expansions, wherever feasible, to existing organizations. It is anticipated that common functions would be:

- to serve as resource bodies for specialized and interdisciplinary training in the field of child abuse for individuals and groups in its region;
- to maintain a resource and information centre that is computer-linked to the National Resource Centre for Child Abuse Prevention, and to provide resource materials and training materials on child abuse;
- to assist regional resources in providing services accessible to disabled children (hearing, visual, mobility, developmentally and mentally impaired);
- to support local co-ordinating committees on child abuse and a variety of other community-based organizations with information, consultation, training and resource materials;
- to initiate appropriate research activities in accordance with particular areas of need and interest of the regional resource centres;
- to assist government authorities in the development of appropriate policy recommendations; and
- to develop specialized expertise within the field of child sexual abuse, which in turn can be a resource to the nation as a whole.

It is important to develop such a centre in the Far North. Consultation with provincial/territorial governments and non-governmental organizations can assist in possible locations. If there is no appropriate organization already existing, then additional start-up funding will be required.

The proposed Regional Resource Centres for Child Abuse Prevention will have a regional focus in terms of training, information, dissemination and research. It may also be appropriate for each centre to eventually develop one or more areas of specialization in which it will serve as a national resource. If we are to advance knowledge and expertise, there must be national focus of attention. A model for dealing with child abuse that has been developed in the United States has a number of specialized centres in different locations, each with responsibilities for different aspects of the problem.

Areas of possible specialization could include the following subjects:

- legal areas related to child abuse;
- primary prevention programs and strategy in the field of child abuse;
- healing and treatment services for victims, family members and adult survivors;
- treatment and correctional services for offenders;
- training of multi-disciplinary teams of health care and other professionals to expand the role of health care institutions in providing services as well as initiating prevention programs;
- specialized services for aboriginal constituencies, including a comprehensive resource centre;
- the special needs of rural and remote communities;
- the special needs of institutionalized children;
- the special needs of disabled and mentally handicapped children; and
- the special needs of immigrant children who have been victimized.

This specialty list is lengthy and combinations are possible and indeed desirable. The list does indicate, however, how many aspects of child sexual abuse require special consideration.

Expert Advisory Committees

There are excellent resource people in Canada in the different fields of child abuse related to prevention, justice issues, healing and treatment, and aboriginal communities. Their expertise should be mobilized to help the field as a whole to make advances in critical areas.

This approach has been used by Health and Welfare Canada in the past. A current example is the Expert Interdisciplinary Advisory Committee on Sexually Transmitted Diseases in Children and Youths. The committee has just completed three reports, which are receiving national and international acclaim.

It is proposed that 12 to 15 persons in each of four areas be appointed by the minister for a period of five years with a mandate to vigorously pursue their area and to put forward recommendations. The committees should annually submit a public report outlining the state of development in their specialized area, including obstacles to development and requirements for the future.

The committees should maintain ongoing liaison with the Children's Bureau but should remain independent in its pursuit of advancing knowledge and practice. Through the Children's Bureau, ongoing information sharing should be maintained with the Regional Resource Centres.

Members of the Expert Advisory Committees should be asked to serve in a volunteer capacity, but with expenses reimbursed. Provision by the federal government should be made for secretarial and professional staff, and the chairperson may receive an honorarium.

Expert Advisory Committees should be set up in the following areas related to child abuse:

- public awareness and primary prevention;
- justice issues;
- healing and treatment; and
- aboriginal concerns.

The following criteria are recommended in making appointments to the Expert Advisory Committees:

- membership of 12 to 15 persons;
- geographic representation; and
- multidisciplinary nature.

Members appointed should have recognized expertise and experience in the area of child abuse, with some representing specific areas:

- at least one-third of the members having experience in the direct provision of front-line services;
- at least one member having expertise related to disabled / mentally handicapped persons;
- at least one member representing the visible minority community; and
- for some of the committees, a member representing consumers of the services would be highly desirable.

In some cases, the Expert Advisory Committee will be asked to assume special responsibilities, such as convening consultations for issues where there is not yet consensus or where the analysis of problems is incomplete. This approach is reflected in recommendations in this report regarding the healing, treatment and aboriginal areas.

Reporting and Liaison

Although the proposal suggests that the Minister of National Health and Welfare appoint the Expert Advisory Committees, it is recognized that other departments of the federal government have a high investment when the specialized area also falls within their jurisdiction. Thus a consultative process will need to be established among federal departments regarding the appointment of committee members, and reports from the committees will need to be directed to all appropriate federal government departments.

At the operating level, the Children's Bureau will need to facilitate ongoing information sharing and consultation with the other federal departments, as outlined in Recommendation 2.

Recommendation 7

That the Minister of National Health and Welfare, in consultation with other federal ministers, appoint Expert Advisory Committees related to child abuse, in the following areas:

- public awareness and primary prevention;

- justice issues;
- healing and treatment; and
- aboriginal concerns.

It is further proposed that the expert advisory committees report directly to the Minister of National Health and Welfare, and through him/her to other federal ministers.

Federal and Provincial/Territorial Cost-Sharing Arrangements

A key role for the federal government in combating child sexual abuse must be the provision of resource support to the provincial/territorial governments. In Canada, one of the frequently used methods of transfer from the federal government, with its broad national tax base, to the provincial/territorial governments is through the cost-sharing mechanisms of the Canada Assistance Plan (CAP). However, many services related to child sexual abuse are not eligible for cost-sharing under CAP, as currently constituted.

Another important method for federal and provincial/territorial cost-sharing is the Canada Health Act.

In each instance the arrangements for cost-sharing arrangements or block fund transfers are carefully defined and do not encompass the special needs related to child sexual abuse.

A Spectrum of Regional Services

Several important initiatives have already been taken by the provinces and territories to improve front-line services to victims and families, training for staff, better internal co-ordination, improved protocols, etc. These very important initiatives need to be bolstered and expanded to help provinces/territories to share their successes with one another and to address areas where there are gaps in services. The provinces/territories have indicated clearly that they cannot carry the financial burden alone, and that further development will be possible only if some means of cost-sharing can be developed.

This will be crucial to improving and expanding services. The Special Advisor recognizes that this is a delicate and difficult matter for all governments involved. With this in mind, it is proposed that an initiative start with pilot programs in the first few years, with specified budget amounts, rather than an open-ended cost-sharing arrangement. If successful, the program can be gradually expanded so that, in five to seven years from now, there can be a significant increase in services.

This approach also recognizes that increased training of front-line personnel must go hand in hand with maximizing the use of resources. The effective expansion of the service system will be better served by a gradual approach rather than rapid development. The proposed recommendation on cost-sharing is not meant to intrude into the provincial/territorial jurisdiction, but rather to facilitate initiatives that in many cases have already been identified as worthy provincial/territorial priorities, but that lack adequate resources.

It is proposed that negotiations between federal and provincial/territorial officials to develop a cost-sharing plan will take place and will result in additional resources for current front-line services in child sexual abuse, as well as filling many gaps in services. It may be that an additional component can be added under the Canada Assistance Plan, or it may be more feasible to set up a separate program.

The purpose of the new program must be clearly to provide additional resources to the front line, and not simply to transfer current expenditures to the federal government. It may be cost-effective to have the new program administered by the Canada Assistance Plan in order to keep administrative costs to a minimum.

Recommendation 8

That a federal-provincial/territorial cost-sharing program be established in the area of child abuse. Provisions should include:

- a phased-in pilot program arrangement under specified budget amounts, which can be assessed for effectiveness and increased on an annual basis;
- support for local child abuse co-ordinating committees;
- costs of child abuse co-ordinators at the community level, including aboriginal communities and disabled children;

- additional resources to assist currently underresourced front-line services;
- a way of meeting significant gaps in services that currently exist;
- costs of mental health and social services for victims, other family members and adult survivors, including self-help groups; and
- support to the operation of Regional Resource Centres.

Provincial/Territorial Government Initiatives

Recognizing the complexity of the issues as well as the separate jurisdictional responsibilities of the provincial/territorial governments, the following suggestions are put forward as considerations for use in long-range planning by these levels of government. As noted in the Foreword, I do not wish to intrude into other jurisdictions. Recommendations are put forward in the hope they may be useful for consideration by the appropriate jurisdiction. In many instances these suggestions also reinforce initiatives which are already underway.

Provincial/territorial governments have been steadily increasing their activities related to child sexual abuse over the past few years. Throughout this report, examples of provincial/territorial leadership and service initiatives related to dealing with child sexual abuse have been cited. It was not possible in the time available to the Special Advisor to collect all the information about all activities. Such a complete and comprehensive overview would no doubt be of great value if it were continually updated and readily available. This is a task that remains to be done. It is proposed that the National Resource Centre on Child Abuse could serve this function.

Children's Responsibility Centres

Most provincial/territorial governments have identified responsibility centres in their Social Services Ministries to fulfil responsibilities related to child protection and child welfare. These centres must be closely linked with other government departments that have expertise and

resources related to children's services. It would be beneficial to strengthen the existing inter-departmental connections.

Interdepartmental Committees currently exist in all jurisdictions. In some cases, there may be a provincial advisory committee on child abuse. In Manitoba, there is also a provincial co-ordinator for child abuse. In some provinces, a regional child abuse co-ordinator also facilitates interdepartmental co-operation.

These mechanisms tend to foster improved co-operation, collaboration and trust. Everything possible should be done so that the designated children's responsibility centre in the province/territory can give major leadership in the child abuse field, with the full co-operation and assistance of other government departments. The goal of interdepartmental co-operation is to develop and strengthen an integrated delivery of service system at the front line that benefits from the support and co-operation of all departments and professions.

The strengthening of these interdepartmental arrangements arising out of experience provides the greatest opportunity to bring about improved co-operation in front-line services.

Recommendation 9

That, in order to support current initiatives within provincial/territorial jurisdictions, each province and territory ensure an appropriate interdepartmental mechanism is established to co-ordinate programs and resources to address child abuse issues.

Local Co-ordinating Committees: Community Level

In spite of the difficulties created by the increased number of reported cases and limited resources, several communities have developed co-ordinating committees that include many different professionals and systems. These groups typically meet at least once a month to review cases and to facilitate investigation, court action and treatment. They may include social workers, police, health care workers, educators, therapists, Crown prosecutors and other concerned community representatives. Both government and non-governmental agencies are

represented. These groups tend to thrive as a result of the commitment of individuals to multidisciplinary action.

The success of these committees is often dependent on particular individuals, rather than on the systems they represent. If key individuals move away or for other reasons are not able to continue, the networks sometimes deteriorate rapidly and may even disappear.

Co-ordination at the community level is an essential function, and initiatives should be put into place to ensure that bodies designed to unify and co-ordinate are appointed and that an individual is assigned full time, if necessary, to support this activity.

Local co-ordinating committees sometimes specialize in some aspect of child abuse such as prevention, treatment or child protection. In rural areas, they are often organized on a regional basis. Co-ordinating committees exist in several places across Canada, but a common problem is the lack of resources to help maintain the network. In some cases, government assistance is available, but in several jurisdictions there is no government money available for helping these networks.

Among the communities the Special Advisor visited that have good models of co-ordination were Ottawa, Winnipeg, Fredericton, Toronto, Calgary, Victoria, Duncan (British Columbia), and the Burin Peninsula (Newfoundland). In most cases, patterns of co-operation have emerged in response to concern about child abuse. The existence of a network has often resulted in greater government involvement in the form of policy support and special funding.

Attempts at Improving Morale

One child protection unit supervisor in New Brunswick told me about efforts to improve the morale of social workers, to increase pride in child protection services, and to decrease turnover among protection workers.

The child protection workers are organized into units of six, and each team meets weekly to review all the cases of team members. A psychiatrist and a psychologist are consulted on difficult cases. Monthly meetings involve police investigators and the Crown Attorney as part of ongoing training and relationship

building. Two of the social workers who are particularly skilled provide leadership to self-help groups for non-offending parents; these meet weekly and serve all the cases of the six team members.

This approach has resulted in an average tenure of six years for front-line staff and a substantial reduction in the use of sick leave. The supervisor also feels that the quality of services has improved steadily.

The inclusion of self-help groups for parents provides important support and contributes to lessening the guilt felt by these parents. It also provides a rich feedback mechanism for the child protection system and has tended to make the workers more client-centred.

Child Abuse Co-ordinators: Community Level

In many local communities and regions where co-ordinating committees or child protection teams have been formed, the interdisciplinary approach to combating child abuse has been strengthened. Individual front-line workers and their systems are thereby supported in their efforts.

Most community co-ordinating committees and networks operate solely on voluntary efforts or as part-time staff assignments, but particularly in large centres, where government agencies and ministries need to be active partners, a co-ordinating staff position can be an immense asset in developing a more comprehensive service delivery system.

Recommendation 10

That provincial/territorial governments ensure that locally based co-ordinating committees are encouraged and supported, with the assistance of child abuse co-ordinators. These committees should facilitate the work of teams of workers from two or more agencies who may be responsible for such matters as investigation and treatment, and should ultimately be eligible for federal cost-sharing (see Recommendation 8).

Involving Doctors in Child Abuse Cases

The consultations revealed that many doctors are reluctant to get involved in child abuse cases. There seem to be several reasons for this. One reason that most affects family doctors is a reluctance to believe that one group of their patients – parents – are deliberately mistreating children. Many doctors are also reluctant to become involved in cases that may end up in court. As discussed in Chapter 5 on Child Sexual Abuse and the Justice System, concerns over scheduling of appearances and lack of adequate remuneration, as well as the prospect of hostile questioning, make many busy professionals reluctant to be involved in child abuse cases. In that chapter, Recommendation 32 deals with some of those concerns.

It seems that one of the major impediments to greater involvement by doctors in child abuse cases is the present billing arrangement. A single case can be time consuming, and many doctors feel that the present fee schedules, under government health schemes, do not adequately compensate them, since these schedules tend to reward carrying out procedures as quickly as possible, rather than allowing a physician to spend some time on developing a rapport with a frightened, scarred child.

A recommendation proposed by many doctors is the need for doctors to be allowed to submit bills for hourly fees for their professional services in cases such as child sexual abuse, where a patient and family may require much more than a routine medical examination. Currently, the fee per patient visit, the normal basis for billing, does not compensate for the doctor's actual time in a child abuse case.

If doctors are to become more willing to be involved in socio-medical problems, there will likely need to be major adjustments in financial arrangements and more judicious use of their time in court proceedings. For their part, the medical profession must review their responsibility as professionals to play a more active role in child abuse cases. At the moment, the profession does not seem to be giving leadership in this area.

It is important to benefit from the involvement of many doctors in dealing with cases of child sexual abuse. It is not adequate to have only a few specialists involved. We need to

have the medical profession as a whole fully involved, and therefore problems such as fees, inadequate training, inadequate protocols and lack of information need to be overcome.

The leadership for addressing and properly defining these problems should come from the Canadian and provincial medical associations.

Recommendation 11

That the Canadian Medical Association, in conjunction with the provincial/territorial medical associations, carefully review the issues facing the medical profession in relation to child abuse and bring forward recommendations that will address these issues. The scope of the enquiry should include:

- orientation and updating of all medical personnel to the emerging realities of child abuse, including orientation to new resources related to the medical examination, sexually transmitted diseases in children and protocols for reporting, including the vulnerability of disabled children;
- protocols for family doctors in smaller communities related to reporting and assisting with victim assessment and treatment requirements; and
- provincial/territorial health plans that, in conjunction with their respective medical associations, provide remuneration arrangements for child abuse cases to adequately reflect their difficult and sensitive nature, and allow time billing.

Protocols

Historical Development

The Metropolitan Toronto Special Committee on Child Abuse has provided significant leadership in developing protocols for child sexual abuse cases, based on establishing relationships and procedures among the various agencies and individuals involved. Their protocols have been used as models by several local co-ordinating committees across Canada and by some professional associations. Most provincial/territorial governments have developed guidelines for their ministries to follow. Protocols now

exist or are being revised in all parts of the country to cover roles and responsibilities related to child protection.

Manitoba and British Columbia have published and revised protocols targeted at different ministries and professions. "Protocol," used in this context, refers to procedures to be followed where two or more departments, organizations or institutions are involved.

Hospital Protocols

Canadian hospitals have also been actively engaged in developing protocols to guide their services related to child abuse. The Canadian Hospital Association recently completed a study of protocols for child sexual abuse. This study was funded by Health and Welfare Canada¹. "Protocol" here refers to a professional following a prescribed procedure.

Some hospitals have had child abuse protocols for 20 years or more; others have just developed them. According to a recent Canadian study, for those hospitals with protocols, 24% have a formally constituted interdisciplinary committee that meets regularly. The majority of hospital with protocols provide some child abuse training to their staff. Although developments in this field are moving rapidly, large numbers of acute health care facilities have no standardized procedures for dealing with child sexual abuse or sexually transmitted diseases (STDs) in children. A significant number of protocols are not supported by administrative structures to oversee their use, and many hospitals offer no training for staff on the use of protocols or general training on sexual abuse and STDs in children. The pattern, then, is one of uneven development.

As a further step to aid protocol development in hospitals, a federal-provincial committee supported by the Health Promotion and Services Branch of Health and Welfare Canada has just completed guidelines for hospitals related to child abuse, and these will be available for health care institutions².

1 D. Kinnon, *Hospital Response Protocols for Child Sexual Abuse and Sexually Transmitted Diseases in Children* (Ottawa: Canadian Hospital Association, March 1988).

2 Health and Welfare Canada, *Report of the Subcommittee on Institutional Program Guidelines: Guidelines for establishing standards for health care related to abuse, assault, neglect and family violence* (Ottawa: Health and Welfare Canada, 1989).

Instituting Co-operation

There is need for improved inter-disciplinary and interjurisdictional relationships of both the "required" and "desired" type. The major difficulty is in implementing interagency protocols in such a way that all professionals and all government representatives are able to function effectively together.

Protocol development requires mutual understanding, respect and a common philosophy. There are exceptional examples of protocol development that can provide guidance for others. It should be appreciated that even if provincial or national models are used as the basis of local protocols, the process of developing a local protocol is an important first step toward instituting local co-operation. Protocols must be developed and perceived as working tools. The best types of protocols include¹:

- significant involvement of front-line staff in the development of the protocols, because the ability to affect policy is more important than the actual time spent by front-line staff on committees, etc.;
- a development committee small enough to allow significant input from each member and large enough to fairly represent all agencies; and
- teams of professionals from two or more agencies to carry out such activities as investigation, assessment or treatment.

The number of agencies involved should be kept to a minimum. The anecdotal evidence is that smaller protocols between two or three agencies work better. Large, comprehensive protocols become unwieldy with too many actors to keep track of. Examples of protocols between "types" of agencies are:

- child protection agency/police/Crown Attorney to oversee investigations;
- child protection agency/hospitals with responsibility for assessment;
- child protection agency/public health offices in the health area; and

- child protection agency/schools/daycare facilities for designing guidelines on the responsibility to report incidents or disclosure of child sexual abuse.

It is apparent from my consultations that individuals are greatly facilitated in their inter-agency contacts when interagency protocols have been developed and co-operative arrangements have been established. This tends to reduce confusion and uncertainty.

Recommendation 12

That protocols be developed in each local community and rural region to facilitate interdisciplinary and interjurisdictional co-operation among service providers and various systems in combating child abuse.

An Illustration

A succinct illustration of the need for community co-ordination is provided in the introduction to a report prepared by Drs. Eric Sigurdson and Grant Reid on the system of dealing with child sexual abuse in Winnipeg. It mirrors the kind of analysis heard by the Special Advisor in consultations across the country.

The current realities of child and family services in Winnipeg have been substantially determined by the enormous number of abused children that have been identified in recent years. As a consequence of this unforeseen demand, the present system is severely overstressed and it is able to provide only basic services. This problem is experienced in common with most North American and European countries. At the time these systems were planned, no one realized the degree to which child abuse was an ingrained part of our cultures.

One of the most striking facts of current work with abused children is that there is no agreement on the means of measuring risk. It is not surprising, therefore, that different systems enact different policies and that the seriousness with which a matter is greeted is to a significant degree dependent upon the particular organization that a child encounters. While this is not unique to Winnipeg, we must achieve an improved understanding and uniformity of response to

1 S. Hagens, H. Thomas and J. A. Byles, *A Review and Assessment of Protocols for Interagency Collaboration in Reporting, Investigating and Managing Child Abuse in Ontario* (Hamilton: McMaster University, Department of Psychiatry, 1986).

the predictors of child abuse if we are to improve our ability to minimize the re-abuse of children. The Review Team's analysis of child deaths reveals the need for not only a reliable risk assessment tool, but also standards to which the Agencies are accountable and a willingness to review all child abuse deaths in a fashion that permits the system to learn from its mistakes.

The Review Team is aware that the financial implications of these recommendations present a considerable burden to any government in the midst of the present economic crisis. However, the evidence clearly demonstrates that a substantial increase in the funding for these services is required in order to provide adequate services to abused children. If adequate funds are not made available to operate the child and family services system, children will be needlessly abused, and more will die.

Ultimately, the fate of these children will be determined by the degree to which the community is prepared to support appropriate changes in the child and family services system. If Manitoba taxpayers are not prepared to support an adequate level of funding for these services, it will be very difficult for government to respond. Furthermore, government departments, other than the Department of Community Services, as well as private organizations must contribute their share to the resolution of these problems. Progress is dependent upon the activity of a great many individuals and groups¹.

As an example of current momentum under way, it can be noted that Manitoba has implemented most of the 55 recommendations of the report by Sigurdson and Reid. This attests to the efforts of Manitoba's Community Services and Family Support Directorate. In fact, Manitoba is a leader in the videotaping of children's statements, in maintaining child abuse registers and in attempting to respond to native child welfare issues.

Monitoring the Delivery of Child Protection and Welfare Services

With the exception of Prince Edward Island, all provinces have ombudsmen mandated to receive and investigate complaints from citizens about all actions of provincial government agencies. Ombudsmen are empowered to recommend remedies for substantiated complaints and to make reports about the activities of their offices to the legislature. Recognizing that children are one of society's most vulnerable groups, the Conference of Canadian Ombudsmen in 1986 resolved to "ensure within the limits of their legislative authority that all complaints received by them involving children and their protection be given special attention." Canadian ombudsmen have developed a "Declaration of Principles on the Handling of Children's Complaints¹," which stresses responding to children's complaints immediately and in a sensitive, non-threatening manner. All Canadian ombudsmen's offices have affirmed that, whenever possible, a child should be personally involved in the complaint process and its outcomes. When children are unable to advocate their own rights, direct action should be taken to provide services that would promote the best interests of the child.

Provinces have taken different approaches to protecting children's rights. British Columbia offers special services for children through its Deputy Ombudsman for Children and Youth. First appointed in 1987, the Deputy Ombudsman is responsible for co-ordinating ombudsman investigations into the provision of government services for children, developing outreach programs to ensure direct accessibility to the ombudsman for children, and acting as a liaison with provincial and local agencies concerned with children's issues.

Quebec has created the *Comité de la Protection de la Jeunesse*, an independent body with a legislated mandate, which reports directly to the Minister of Justice. Its mandate is to monitor the effectiveness of child protection

1 Eric Sigurdson and Grant Reid, "External Review into Matters Relating to the System of Dealing with Child Sexual Abuse in Winnipeg: Final Report" (Winnipeg: Manitoba Ministry of Community Services, March 1987), pp. 1-6.

1 Canadian Ombudsmen, Declaration of Principles on the Handling of Children's Complaints (unpublished paper).

services, investigate complaints, conduct research and review the government's role in serving children. It publishes an annual report summarizing its findings and giving recommendations.

These are examples of different approaches that are taken and the different kinds of structure that have been established. By mandate, the ombudsman's offices are limited to investigating provincial government departments and services. The authority of the ombudsman in some jurisdictions does not include the investigation of complaints concerning services provided by private groups or bodies on behalf of governments or operated by non-profit organizations with government funding.

An International Model

As a foreign example, Norway established the world's first ombudsman for children in 1981. The rationale was that children constitute a weak and vulnerable group within the population. Official goodwill is not always sufficient to ensure that the needs and rights of children are properly protected, nor do they have much chance of success when the interests of children conflict with interests of well-organized or stronger groups.

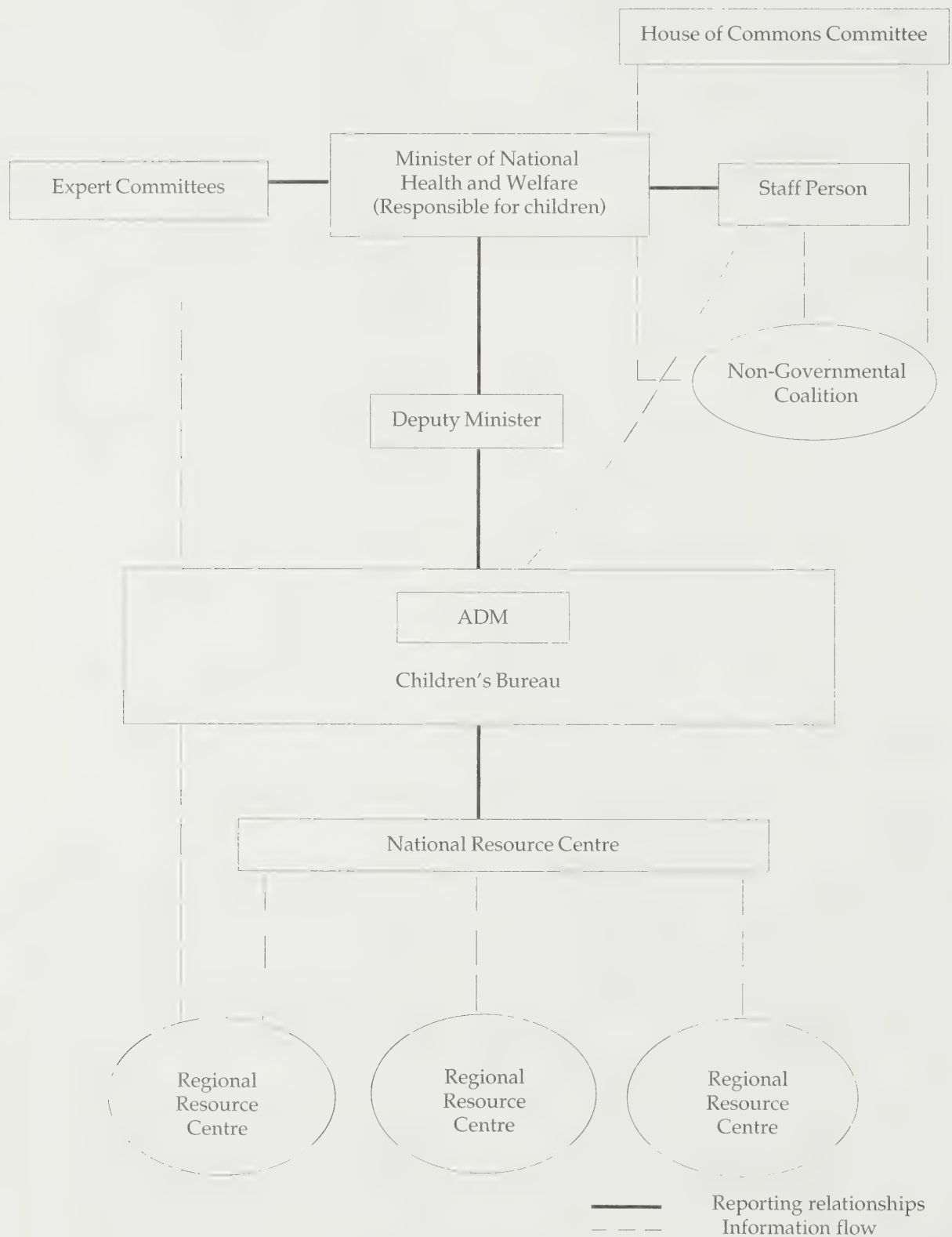
During its first five years, the office received 2000 complaints annually. A decline in the number of complaints had been expected as the novelty of the office decreased. Instead, however, the number has increased steadily. Norway's commissioner for children has been instrumental in creating public awareness of the needs of children and in lobbying for amendments to existing legislation concerning children.

In the Canadian system, this model may be more applicable at the provincial/territorial level, since the provinces and territories assume the responsibility for the operation and provision of direct services to children in the child protection and welfare fields.

Recommendation 13

That the provinces and territories have an appropriate mechanism for independently monitoring services for children by government departments and their agents and for investigation of complaints by and on behalf of children, utilizing the best experiences already developed. The mandate should include a commitment to the declaration of principles on the handling of children's complaints, already adopted by the Conference of Canadian Ombudsmen, and the *United Nations Convention on the Rights of the Child*. The mechanism should include responsibility for monitoring services provided to children by government and on behalf of government by non-governmental and private organizations. Where such a mechanism is already in place, it must be ensured that it is independent and easily accessible. It should also publish an annual report regarding the government's performance in serving children.

Proposed Federal Structure



Public Awareness and Primary Prevention

The Underpinnings of Child Sexual Abuse

The sexual abuse of children is symptomatic of deeply rooted societal values that tolerate and thereby promote the misuse of power and authority against vulnerable populations, including children. The sexual abuse of children is a pervasive social problem that can be reduced and ultimately eliminated only through comprehensive social change and culturally appropriate community development strategies. The sexual abuse of children is not gender-neutral. Although some women do sexually

abuse children, the vast majority of offenders are males, while there are large numbers of both male and female victims.

The Child in Society

We are on the eve of an important moment in history. The United Nations General Assembly has just adopted the *Convention on the Rights of the Child*¹. For the first time, children in all member countries of the UN are to be accorded a broad range of rights. The right to freedom from abuse is one of those rights. The discussion that should arise from an examination of this Convention will inevitably lead to consideration of how we value children in our society.

It can be argued that Canadian children live at a standard of living higher than that of most other children in the world. Parents buy designer clothing for children and stock their bedrooms with toys, books and computers. But do they really understand the concept that children are human beings with the right to participate in society, the right to learn how to be actively involved in decisions about their own lives, and the right to develop physically, intellectually and spiritually as equals? In fact, it appears that many adults prefer to teach children to be passive, to be obedient and to be controlled.

Obedience and passivity contribute to the victimization of children by adults. Children who are abused sexually are children who do not understand that they have rights to say "No." They are children who can be controlled by adults who choose to use their power to exploit those who are most vulnerable.

Voices

The sexual abuse of children is perpetuated by ignoring the prevalence of patriarchy in our society. Specifically, we must address the eroticization of powerlessness, and those forces which encourage many men to believe that they have the right, by virtue of being male, to sexual gratification, with or without consent. This belief drives the rape and harassment of women, sexual violence among adolescents, our refusal to ban pornography as hate literature and, I believe, the sexual abuse of children.

Heather-Jane Robertson
Member, Canadian Teachers'
Federation
May 1989

1 See Appendix C: United Nations Convention on the Rights of the Child.

The Family as Nurturer

The family is society's major vehicle for socializing children and has long been viewed as a safe haven for children. The majority of Canada's families have done and are doing a credible job in educating and nurturing children, despite the stresses of a turbulent social and economic environment.

On the other hand, many persons I consulted perceive that about a quarter of our families are experiencing a range of difficulties. The growing diversity of lifestyles and values can make parenting more difficult because value systems compete and because there are few clear models to emulate. Children, being the most vulnerable, are often the first to suffer when families undergo stress.

During the past decade, we have become increasingly cognizant of the breakdown of interpersonal relationships, family disintegration and domestic violence. Children who are caught in destructive violence between parents suffer some of the same effects faced by children who are the direct victims of violence.

Some parents lack parenting skills or may be emotionally immature. Instead of having the resources to nurture their children, these parents may neglect or abuse those who most need them. While it is perhaps a tribute to the human spirit that so many individuals manage to cope as well as they do under stressful circumstances, we cannot leave to chance the welfare of our youngest citizens.

Many people feel that the family as a social structure is threatened and needs to be strengthened and supported as the place where children are socialized and learn values. Yet to do so requires a fundamental change in thinking. It is doubtful that the position of children in the family setting can be much improved without looking more consciously at issues of human sexuality, greater equality between roles of men and women in society, and the importance of domestic settings as nurturing centres where children are protected and safeguarded. Although most parents speak about valuing their children, many socializing processes and activities for children are not child-centred. In fact, they may be harmful to children.

As a legal entity, the family is both easily formed and easily dissolved. One could argue that it serves primarily the interests and needs of adults. Hence, the very institution that is assigned the major responsibility for socializing children is often fragile, stressed and inadequate to the task.

The women's movement has given leadership in analysing many of these values issues. It is now crucial that society as a whole, and particularly men, give serious attention to the status and role of women and children in society.

We must recognize that the term "family" has taken on a broad meaning in a pluralistic society whose members have very different cultural and ethnic backgrounds. "Family" includes not only mothers, fathers and siblings, but also members of the extended family and, for some cultures, it also includes a broader community. A contemporary definition of the family must take into account single parents, common-law relationships and other emerging styles of family life.

Social change in the 1960s and 1970s has had a profound impact on family structure. According to Kahn and Kamerman, there appear to be four major trends in the changing structure of the family. These trends are:

1. more families have two working parents as wage earners;
2. more women are working in both two-parent and single-parent families;
3. the number of single-parent families is increasing in number, especially those headed by women; and
4. the restructuring of the family is due to the large number of divorces and remarriages.

While family structures are changing, so too are family functions. Parsons notes that only two basic family functions remain: the socialization of the child and the exchange among family members of emotional support and affection. Not all family researchers agree with Parsons but most agree that the more concrete operations of education, religious training, recreation, protection and production of food are carried out by specialized organizations and are rarely seen as family functions. The main family functions seem to be "intimacy, emotional support, interpersonal fulfillment, expression of mutually developed values, and achievement of

personal satisfaction." It might be logical to assume that a breakdown in this haven of affective support results in divorce¹.

The family has long been recognized as the primary socializing agent. What happens to children in their earliest years is fundamental in shaping the values and attitudes they will carry with them throughout life. If children are abused or neglected, the damages that result will remain as shadows over their lives and may affect how future generations are raised. Governments are attempting to recognize and grasp their responsibility by supporting families as nurturing centres for children. Families struggling with poverty are severely hampered in their abilities to provide adequate social and emotional development experiences for children. Investment in children now is a sound investment for a safer and healthier future.

Community Institutions and the Family

What should be the responsibilities of institutions such as schools, churches and other community organizations? During crises, society's institutions attempt to provide care and security. Yet less attention has been given to the causes that lead to crises. If for no other reason than survival, serious attention must be given to issues of social development and, in particular, to a clarification of values regarding our vision of the family's role and of the importance of children. Families of all kinds must be supported in their role to support and nurture children.

A commitment to creating a socially healthy culture has to underpin any serious long-term effort to reduce the incidence of sexual abuse of children and other forms of abuse in our society. It is also important to look at these underlying negative factors, for the same factors seem to contribute to a broad range of violent behaviour, including sexual assault and the sexual abuse of children. By addressing these underlying issues more directly, we enhance the possibilities of tackling an extensive array of social problems over the long term.

1 D. Harvey, *Some Social Change Effects in the 1980s* (Winnipeg: University of Manitoba, February 1989), pp. 5-6.

The Role of Education

It is also timely to address the role of our schools in social development. Contemporary schools must play a role much broader than teaching academic skills.

Educators agree that teaching children about sexual abuse should be done within the context of curricula that address the broader subject of human sexuality and life values. This approach to comprehensive school health is an identified priority across the country.

Health and Welfare Canada has recently established a mechanism for ongoing liaison with provincial/territorial departments of education through the Council of Ministers Education, Canada. Discussion of this report has been identified as one of the topics for possible co-operative efforts. There is an opportunity for productive and appropriate actions and activities at an intergovernmental level. Further, various discussions within Health and Welfare Canada have established effective partnerships with national non-governmental organizations in education representing parents, school principals, teachers, school superintendents, Ministry of Education officials and school trustees.

The Interrelatedness of Issues Surrounding Violence in the Family

The extent to which issues of violence in the family are interrelated was noted many times during the cross-country consultations of the Special Advisor. The issue of child abuse in its several forms, wife assault and elder abuse were identified as being closely connected.

Shelters for battered women often receive children who have suffered sexual and other forms of abuse. Many runaway adolescents flee abusive family settings. Many juvenile prostitutes have been victims of sexual abuse in their growing years. The presence of alcohol abuse is a compounding factor that increases the risk of other forms of abuse. It can be argued that abuse in the family setting is largely a symptom of other underlying problems and stress, such as:

- inadequate emotional and social development;

- emotional difficulties of parents and lack of coping skills;
- inadequate parenting skills;
- poverty or economic stress;
- communication and relationship difficulties;
- poor self-image and low self-esteem; and
- negative forces in the surrounding environment.

Single-parent families and newly merged families add other dimensions of stress and risk to children. The family in its many evolving forms continues as society's primary agent of socialization and care of children. A great deal of positive reinforcement is needed if the family is to be successful in this mission.

All of these related issues have significance for the long-range reduction of child sexual abuse and must be addressed as part of a public awareness and primary prevention strategy.

Retaining Focus on Children

While child abuse is clearly related to other problems, many experienced professionals expressed the view that retaining a separate focus on children and children's issues is essential. Several unique aspects of child sexual abuse merit specialized approaches. Although there must be efforts to strengthen the family as part of a prevention strategy, the primary focus on the child must be retained.

This concern was reflected in the statement, "A victim is a victim, is a victim." Advocates of this view believe that courts and the public at large tend to minimize sexual crimes within the family. There is concern that the needs of children may be ignored if service delivery systems rely too heavily on the concept of "family violence," rather than focusing on child abuse. The sexual abuse of children, whether from inside or outside the family, must be recognized as criminal activity in the eyes of the law.

Child sexual abuse cannot be dealt with in isolation of other issues such as poverty, housing shortages, the legitimization of corporal punishment as a form of discipline, and the vulnerable position of children in society, especially those who are disabled. The inter-relatedness of social and economic factors and negative socialization attitudes in our society are

significant factors that must be addressed as part of a primary prevention program. As noted above, the United Nations has just adopted the *Convention on the Rights of the Child*¹ Canada has co-sponsored the introduction of this Convention to the General Assembly. All Canadian governments will now have to assess their laws and policies to ensure that they reflect this new international convention. Children must be accorded proper and equitable protection, participation and recognition.

Primary prevention is by its very nature complex and multifaceted and must be perceived as a continuum of co-ordinated efforts involving the following efforts:

- governments must demonstrate continuing commitment to leadership related to the welfare and safety of children, and must express this through funding of specific strategies to prevent child sexual abuse;
- strategies for the prevention of child sexual abuse must incorporate provisions for the early identification of existing victims and offenders, as well as those at high risk of becoming victims and offenders;
- any public awareness efforts must be undertaken with the recognition that increased awareness of the existence of child sexual abuse has been accompanied by increasing numbers of disclosures and thereby increased stress on a service delivery system that is already struggling with the problems of burnout and inadequate resources; and
- all initiatives to prevent child sexual abuse should be undertaken with a sensitivity to cultural differences and a commitment to involving survivors and local communities.

Public Awareness Programs

Some people have advocated a multi-media campaign dealing with child sexual abuse similar to that used by ParticipAction to encourage physical fitness. Consensus was not

¹ See Appendix C.

achieved around this topic during the consultations. It would appear that the time may not be right for such an approach to child sexual abuse.

Concerns expressed included: cynicism about government fidelity to such a controversial area, worries about the extensive costs of this approach, the length of time required to register a real impact on the general public, the nature of the message (broad impact statements versus statements specific to sexual abuse), the tone of the message, and the immediate impact upon the service delivery system. Any multimedia campaign that might ultimately be undertaken should have some private funding and must only be part of a comprehensive response that would address other contradictory and sexually stereotyped media messages; it would be closely tied to local priorities, initiatives and resources. The general consensus seems to be that it is premature to devote precious resources to a media campaign and that other priorities should be dealt with first.

However, other forms of public awareness programs are now in place and are serving a vitally important function. A good example is the Family Violence Film Collection, which is supported by Health and Welfare Canada and managed by the National Film Board. For the past six years, this collection of over 50 titles has been viewed by millions of Canadians as part of training programs, school-based education programs and community outreach. This kind of awareness program is available at no direct cost to citizens and has the potential to be tied to locally directed needs and resources.

Recommendation 14

That the National Family Violence Film Collection be maintained and regularly updated so that the Canadian public has access to a broad range of excellent training films on child sexual abuse, and that the federal government continue its support of the National Film Board in the development of new films that are required to ensure public awareness. The CBC and other public broadcasters should regularly broadcast appropriate documentaries and dramas dealing with domestic violence and child abuse.

One film on the subject, titled *To a Safer Place*, which is about the experiences of Shirley Turcotte, a survivor of sexual abuse, has had an

enormous impact. Winning awards everywhere, it has been a Canadian contribution to programs to reduce child sexual abuse for the entire world. It has been broadcast on the American PBS network as well as on the CBC in Canada and on the ABC network in Australia.

Voices

Scores of phone calls poured into Engineering at B.C. Telephone, after the film was launched and after the PBS broadcast. My office became a counselling centre. At my workplace in one department alone, there was a disclosure rate of 25%. What had I expected? The statistics had warned me!

Shirley Turcotte,
Subject of the film *To A Safer Place*

Prevention in Schools

Ministries of education, school boards, teacher federations and education associations have a crucial role to play in making the school environment a leader in reversing the social context that allows the sexual victimization of children to continue. A recent national conference, "Exchange 88," held in Winnipeg in May 1988, reviewed progress to date and made recommendations for all who are responsible for policy within the education system. A positive result of this dialogue has been the creation of the Canadian Association for School Health.

The National Education Associations and the Council of Ministers of Education, supported by the Health Promotion Division of Health and Welfare Canada, are currently studying an expanded role for schools in dealing with a broad range of social issues. These include substance abuse, AIDS and child sexual abuse.

Recommendation 15

That Health and Welfare Canada continue to work with the Council of Ministers of Education and the national education associations in developing long-range programs of

values education, including those related to issues of patriarchy and hierarchy, domestic violence and sexual abuse.

Schools have to accept the responsibility to teach young people that any sexual activities they engage in must be safe, that they must not experiment with drugs and that the sexual victimization of anyone is wrong. There are no choices about these basic issues, although debate may continue about some of the details of the programs. Education about sex does not encourage premature or inappropriate sexual conduct. On the contrary, knowledgeable young persons are less likely to engage in inappropriate sexual behaviour.

At the same time, schools have a role to play in helping to build the self-esteem of young people and to equip them with the life skills essential to survival in a world fraught with challenge. There is growing support for "values for living" curricula for children that can address sensitive topics.

It is understood that bringing schools more fully into the struggle against child sexual abuse will place demands upon an already crowded curriculum. Child sexual abuse is best addressed by school systems within a sexuality program that in turn is situated within a comprehensive and mandatory school health program. Such an approach allows for the development of specific knowledge and skills about sexual abuse within the context of a normal, healthy development of the child.

Voices

I just couldn't seem to concentrate on anything. My mind would always wander and if I stopped to think of anything for too long the thoughts about my dad [abusing me] always came back. The teachers at school used to get really mad at me for that because they always said I wasn't paying attention to them. I think if they knew why I wasn't paying attention to them, maybe they wouldn't have gotten so mad.

A Victim¹

Strategies must be developed and disseminated to assist schools in their development delivery and evaluation of school-based programs used in partnership between the school and community-based professionals. Comprehensive school health programs that include instruction, appropriate support or referral services and a safe learning environment are the most effective and efficient response for the school in working with the entire community to prevent child sexual abuse.

The Empowerment of Children

Children spend most of their waking hours in schools, where cultural values are developed and reinforced. If school teachers choose to exploit their positions of power over children and fail to demonstrate a caring-based nurturing of young minds, they perpetuate values that ensure the continuing exploitation of the most vulnerable. Children must be empowered in the most general sense as they acquire new information. Children must know that they are not to be victimized by those who abuse authority or trust. They must be taught to be independent minded. The shaping of values in our young is a precious trust that must be understood and respected by all adults.

A particularly sad result of the recent awareness about child sexual abuse is one of backlash, particularly on the part of some professional teachers' associations. Because of a relatively small number of cases of false allegations, some teachers have taken the position that they will no longer risk touching children. This includes physical education teachers who may refuse to touch children working on athletic equipment, primary school teachers who used to hug children who were hurt, and school principals who may refuse to interview children individually without the presence of a witness.

The Special Advisor is of the opinion that at least two major initiatives need to be undertaken. First, a thorough and competent analysis must be made of the cases that have resulted in dismissal or a finding of false allegations so that we can understand what is really happening in this area. Second, teachers need to be given guidelines that will encourage the healthy touching of children yet also assure teachers that

1 Tony Martens, *The Spirit Weeps* (Edmonton: The Nechi Institute, 1988), p. 33.

their interests are protected. These guidelines should be part of a national in-service training program about child sexual abuse for all school personnel (more is written about the subject of inappropriate touching and false allegations in Chapter 5 on Child Sexual Abuse and the Justice System).

Programs for the School Children and Their Parents

In recent years, an ever-increasing number of school systems in different parts of Canada have begun to implement preventive programs related to sexual abuse. While most of these programs are based in elementary schools (the CARE Kit¹ was the first school-based program created), more recent developments have also included pre-school children and daycare personnel (a project of the Canadian Institute of Child Health²) and adolescents. Age-appropriate instructive materials such as innovative booklets, films and theatre support classroom discussion. The premise of such programs is that children can be taught how to reduce the chances of being victimized and that they can learn where to turn for help if they are abused.

Recent developments include programs for pre-school children, as demonstrated in the federally funded Safe and Happy Personal Safety Kit, a joint effort between Outreach Abuse Prevention and the Canadian Institute for Child Health, which was distributed nationally to all registered daycare centres in 1988.

A pioneer program was launched in 1983 by the Metropolitan Toronto Special Committee on Child Abuse. This program, designed to educate school personnel, parents and their children about abuse, involves orientation meetings for the principal and teachers of participating schools, for local professionals and for parents. A drama production followed by classroom discussion, using a teaching kit, is presented to the students. Parents are alerted on the timing of the students' dramatic presentation

and are encouraged to follow up with discussion at home. This comprehensive approach is important because children are not alone in receiving instruction; they must be supported by the understanding of school personnel and family members. This program includes extensive teacher training and orientation to the issues of child sexual abuse, and more particularly to the prevention of child sexual abuse.

Those school-based programs that appear to have been most successful are those where school and community have come together in a common effort of education. This approach must be encouraged as part the continuing understanding that the various sectors must share the responsibility for this work.

A study conducted by Eric Sigurdson, Malcolm Strang and Terrie Doig examined the effectiveness of one such preventive program in Manitoba. The study involved 137 students in Grades 4, 5 and 6, using the National Film Board production *Feeling Yes Feeling No* as the core of a preventive sexual abuse program. The study concluded that the program helped students appreciate much more fully the risks of sexual abuse and that it was effective in increasing knowledge and skills central to the prevention of sexual abuse. Longitudinal research is needed to see if such prevention strategies actually reduce the incidence of child sexual abuse.

Increasing attention is being given at the secondary school level. Adolescence is a time when sexual experimentation increases, as well as being a time when some begin to engage in abuse. It has also become evident that adolescents are using violence to deal with conflict in relationships, and that sexual assault during dating ("date rape") is occurring often. It is apparent that adolescents express significant attitude and behaviour problems related to sex roles.

An expansion of school-based prevention programs can yield many kinds of rewards. Not only should children learn new self-protective strategies, but also parents should become more aware of how they can be supportive of an enhanced and more effective child-centred approach to confronting child abuse.

There are, however, caveats. It may be that children who have been exposed to school-based prevention programs still cannot find a way to tell; this may put them into an even more damaging position. Every program must reassure children that they can try to prevent their

1 Child Abuse Research and Education Productions Association of B.C., *THE CARE Kit* (Surrey, B.C.: CARE Productions, 1984).

2 Canadian Institute of Child Health, *Safe and Happy* (Ottawa: CICH and Outreach Abuse Prevention, 1988).

own abuse and must also communicate to the children that they are never responsible for inappropriate adult behaviour.

Recommendation 16

That provincial ministries of education, culture and recreation, and social services should continue to fund and plan strategies that will encourage an enhanced liaison between school personnel and community leaders, supported by developmentally appropriate preventive education programs, targeting pre-school through elementary to secondary levels of education. As well, teacher training must regularly deal with child sexual abuse.

The Community's Role in Prevention

Prevention activities must be expanded through community-based family support programs such as drop-in centres, self-help support groups and adult education because they have such tremendous potential for reaching adults at risk of abusing children.

There is also merit in broadening the availability of parenting education programs through the community. These programs must be supportive rather than didactic. In addition to parenting skills, such programs should offer opportunities for discussion and counselling about power imbalances and appropriate behaviour between adults and children.

I was struck by the unique opportunity facing public health nurses to influence families with new babies and young children. Strong and supportive relationships between community-based health personnel and families create environments in which new teaching can be introduced in the prevention of child abuse. This professional group is underutilized, relative to the role they could play in community education.

Increasing numbers of special public awareness meetings for parents and the community-at-large are being offered by a variety of community organizations. A Manitoba-based social services agency has added on a community relations staff position to concentrate on public awareness with the objective of involving the total community in addressing the problem of child abuse. This has prompted the development of special projects and has

increased the involvement of many community groups and individuals. This is but one example of a community development approach that reflects the philosophy that child protection agencies can offer more than crisis management and can share a community responsibility for public awareness.

Recommendation 17

That the federal and provincial/territorial governments continue to support community-based primary prevention, public awareness programs so that all sectors of society are encouraged to participate in the prevention of child sexual abuse.

Community-based initiatives are the most effective approach, but will require support from all levels of government.

The Role of the Media in Shaping Values and Child Pornography

Today's children are bombarded with a variety of destructive messages about wars and violence, about power and exploitation, and about finding an identity through the acquisition of things in the marketplace. Further, the message of modern broadcasting seems to be that violence and sexual exploitation are acceptable. These negative aspects of contemporary media reflect our broader society and help to shape values that children will carry into adulthood.

While society must be cautious about engaging in censorship, particularly with regard to books and films, it clearly has a role in regulating the extent to which children and adolescents are exposed to violent and exploitative material through freely available media, particularly television. Further, adults should not have access to pornographic material that suggests the sexual exploitation of children is acceptable.

The issue of child pornography is not governed adequately in the Criminal Code. In 1986, the federal government introduced legislation to deal with a number of issues related to pornography and erotica, including child pornography. While the provisions relating to child

pornography were widely accepted, the controversy over other issues resulted in the failure of the legislation to be enacted.

There are legitimate debates in our society over the appropriate extent of state restriction of sexually explicit material. However, there is no doubt about the devastating effects it has on the children and adolescents who are used in the production of pornography. The use of children in the making of such materials is abusive. If children are not directly available as subjects, young adults are dressed to look like children. Known as "kiddie porn," this special kind of pornography promotes children as sexual objects and encourages their exploitation.

Often, sexually explicit materials are presented in a violent context. "Snuff films," photographs showing weapons being used sexually and sadistic exploitation of victims are all common in the pornography market. Women and children are the victims of such depictions of violence.

Sexually explicit material is accessible to children and adults through the print and electronic media. Although the data are inconclusive about the direct effects of pornographic messages to arouse sexual offenders, there is enough evidence to recognize that pornographic and other violent materials have a damaging psychological effect on individuals who are unable to control their own inappropriate sexual responses in acting out behaviour. Adolescents are particularly vulnerable to the influences of these kinds of materials. While children and adolescents need access to accurate and explicit sex education materials, access to pornographic materials should be restricted to adults.

Recommendation 18

That the federal Minister of Justice introduce legislation that will address the protection of children from the harmful effects of pornography, including a revision of the Criminal Code, harsher penalties for using children in the production of sexually explicit materials, stricter monitoring of our borders by Customs and Excise officials, and prohibitions on the distribution, possession or sale of pornographic materials to children. The process of enacting legislation dealing with issues related to children and child pornography should be separated from that dealing with adults.

The media can have both a positive and negative impact on cultural values. To the degree that television reinforces violence and sexual exploitation and thus in turn promotes acceptance of these values, it can be argued with some validity that these influences require monitoring and social control. It is therefore suggested that the public agency with responsibility in this area should have a role in setting out acceptable boundaries.

Recommendation 19

That as part of a general prevention strategy, the Canadian Radio-television and Telecommunications Commission (CRTC) assume a more active role in regulating broadcasting, with the goal of reducing the amount of violent and sexually exploitative material available to the general public.

There is a more positive role for the media to play in the prevention of child sexual abuse. A number of television programs have dealt with the issue in the form of dramas and documentaries. In Canada, Peter Gzowski has made a remarkable impact upon the listening public by featuring interviews on his CBC radio program, *Morningside*, with adult survivors of child sexual abuse. Responsible reporting by media personalities who demonstrate a social conscience should be publicly acknowledged and encouraged by the professional community.

The media have an important educational and informational role to play in helping the public become more aware of the causes and effects of violence and sexual exploitation. The media can help to change public attitudes. Thus, the media must become a strategic player in public awareness and primary prevention.

Media editors need to ensure that educational material is not stifled, particularly as it relates to sensitive material. Finally, local community efforts at public education can benefit enormously from the support and involvement of media through their efforts to develop community awareness and understanding.

The Importance of Professional Organizations

Professional and voluntary associations have a role to play in public awareness and prevention. The social work profession in New Brunswick prepared and distributed a five-part factual overview of child sexual abuse issues¹. It was designed to help broaden public awareness about child abuse and to provide the media with adequate background information on the subject. Accurate information is essential to improving public understanding of the issue.

Recommendation 20

That all relevant professional associations be encouraged to develop policy with respect to child abuse and the role their professionals should play in the detection, treatment and prevention of abuse.

Non-Governmental Community-Based Systems

Organizations Serving Youth

Many non-governmental organizations are playing an active role in public education and public awareness. The British Columbia Society for Children and Youth, a non-profit voluntary organization of concerned citizens in Vancouver, has produced *A Blueprint for Child Abuse Prevention*² to help community leaders in that province take action to prevent child abuse. Within the school system of British Columbia, the Canadian Red Cross Society is delivering a preventive program to adolescents³.

1 New Brunswick Association of Social Workers, *Child Sexual Abuse*, in five parts (Fredericton: New Brunswick Association of Social Workers).

2 V. Fronczek and J. Sippel, *Blueprint for Child Abuse Prevention: A Comprehensive Approach* (Vancouver: Society for Children and Youth of B.C., May 1987).

3 Canadian Red Cross Society, *Child Abuse Prevention Program* (Vancouver: Canadian Red Cross Society, 1987).

Big Brothers of Canada¹ has developed a prevention program that includes screening of volunteers and education for both the children and their parents. More recently, the Canadian Council on Children and Youth has been working with all of the major national youth-serving organizations to complement this initiative by developing a comprehensive training program for volunteers and youth leaders. This program, *Put The Child First*², includes a videotape, training materials and proposed guidelines. The training should lead all participating organizations to develop procedures for reporting suspected child abuse or neglect to the appropriate authorities, and for screening out potential abusers who may try to gain access to children for abuse through volunteer activities.

It is clear that we must encourage strategies that allow for the development of supportive networks of those who volunteer in the interests of children.

Recommendation 21

That child and youth serving organizations in Canada continue and further develop their efforts to combat child abuse in Canada, including the addition of an official policy to prevent child abuse within their organization. Official policies should set out guidelines related to the selection, training and screening of leaders.

The Church Community

Religion has traditionally been seen as a source of solace and respite for those who are troubled. We have looked to religious leaders for guidance in shaping our values and traditions. Many have returned time and again to organized religion for direction and forgiveness. Sadly, that institution, which has been held in such high esteem, is now being criticized for having on occasion allowed the sexual abuse of children to continue as a horribly dark secret. The cases that are under investigation in the Roman Catholic

1 Big Brothers of Canada, *A Manual for the Prevention of Child Sexual Abuse* (Burlington, Ontario: Big Brothers of Canada, 1985).

2 Canadian Council of Children and Youth, *Put the Child First* (Ottawa: Canadian Council of Children and Youth, 1989).

Church in Newfoundland are the most highly publicized ones, but there have been many cases in other Canadian provinces involving other religious groups.

There are many victims and offenders who turn to organized religion to re-examine precepts and concepts in order to begin a healing process. Some denominations have begun to form a pastoral response in partnership with their communities and are offering education programs within their churches. But much more is needed; certainly the current crisis points to the importance of a rethinking of the leadership role played by our churches.

The trauma of child sexual abuse affects people physically, psychologically and spiritually. It can be argued that the combined efforts of secular expertise and spiritual healing are needed to help victims, survivors and offenders heal their wounds.

The entire religious community and the general public are anguished to learn about the number of charges related to child sexual abuse being laid against Roman Catholic priests and other church workers throughout Canada. Disclosures are coming from men and women who have described their treatment by clergy and teachers in orphanages and in residential schools for aboriginal children. The problems are not new ones.

During the course of the consultations, the Special Advisor heard several suggestions regarding initiatives that should be considered:

- Church communities (congregations) are psychologically and emotionally very important to distressed individuals and families and should be made more sensitive to their importance for support during the healing process. Child victims of abuse and their families are extremely vulnerable to emotional and psychological trauma. It is important that families in which abuse has occurred not be ostracized or shunned by the church community.
- Church pronouncements regarding basic values need to be clearly enunciated. Families should be seen as nurturing centres for all family members, where violence and abuse of any kind are morally wrong and unacceptable. The churches need to speak out against child pornography, physical and sexual assault

and other forms of violence, especially male violence both inside and outside the home.

- Religious leaders need special education, as do other professionals, regarding the dynamics and symptoms of child sexual abuse, so they can recognize the problem and respond in supportive and helpful ways. Church professionals are part of the front line in the community for disclosures. They need to provide moral support for victims and to give appropriate referrals for treatment and official investigations.
- Church organizations require clear and unequivocal policies regarding the sexual conduct of their professionals and volunteers. Clear guidelines for intervention must be developed. Perpetrators must be held accountable for their actions and should be subjected to full criminal investigation, though also supported with necessary treatment and pastoral counselling. Suspected sexual offenders should not be transferred by church authorities to other communities until a clear resolution about alleged conduct is investigated. Cover-up and protection of perpetrators must not be tolerated.

It should be noted that initiatives have been taken by several churches related to child abuse. These include educational materials such as the *Purple Packet* and *Broken Boundaries* produced by the Mennonite Church, *Guidelines Related to Child Abuse*, produced by the Anglican Church of Canada, and *Ending Violence in Families*, produced by the United Church of Canada in association with the Ecumenical Family Ministries. The Church Council on Justice and Corrections has produced a major resource kit, *Family Violence in a Patriarchal Culture: A Challenge to Our Way of Living*, which examines the impact of the traditional values in our society. In addition, training projects are under way in a number of provinces for church leaders and students in Canada's theological schools.

Recommendation 22

That churches develop policies and procedures for responding appropriately to the problem of child sexual abuse. This includes the articulation of guidelines for church leaders to follow in the event of disclosures, training

for appropriate pastoral counselling, procedures to follow in the event that church personnel are accused of sexual abuse, and comprehensive screening procedures for clergy and other personnel who work with children and youth.

programs, both in correctional institutions and within the community, where they should normally be provided on an out-patient basis.

Prevention and Treatment Must Be Linked

There is a concern that public awareness efforts that are not tied to the accessibility of local services can bring increased dangers to children. Every public awareness and education effort related to child sexual abuse prompts more disclosures, thereby generating an immediate need for more support services. While disclosure is a very courageous move for a child, the skills of some investigators need improvement. In most areas of Canada, services are overburdened, and the time between the reporting and the completion of the investigation is sometimes lengthy. Awaiting a court date means an even longer delay for resolution of the issue. The whole process can lead to additional trauma for child victims and family members, as well as to the danger of threats and reprisals by the offenders (more detail is provided in Chapter 5 on Child Sexual Abuse and the Justice System).

Public awareness programs cannot be viewed in isolation but must be considered in relation with the provision of child protection and investigation services, as well as the accessibility and availability of treatment and support. All of these elements – prevention, investigation, treatment and research – must be seen as part of a co-ordinated continuum of efforts to stop the abuse of children.

A further objective in dealing with the sexual abuse of children must be to prevent the recurrence of sexually abusive behaviour. Offenders who are incarcerated must be treated before they return to the communities in which they have abused children in the past. Some of these issues are discussed in Chapter 5 on Child Sexual Abuse and the Justice System and in Chapter 6 on The Challenges of Healing and Treatment and are not dealt with at length here. However, it must be understood that prevention is linked to the provision of adequate treatment

Child Sexual Abuse and the Justice System

Introduction

Sexual abuse is an assault against a child that constitutes a violation of the child's well-being, demanding a comprehensive legal response, co-ordinated within a social framework, and designed to protect child victims and to hold their offenders accountable.

A prime purpose of the justice system is to protect society and to deter criminal acts. The system attempts to provide balance between the rights of the accused and the rights of the victim. This, however, is a difficult task and an onerous responsibility for the court system.

Child abuse cases are among the most difficult for our laws and courts, both criminal and civil, to deal with. In June 1987, Parliament enacted Bill C-15, which has attempted to deal with the uniqueness of this crime by bringing about changes to the *Criminal Code* and the *Canada Evidence Act*. It will be reviewed by Parliament in 1992.

There are often complex evidentiary, procedural or constitutional issues involved in child abuse cases. An appropriate response requires co-ordination by many professionals. The cases are very stressful for all concerned: therapists, judges, victims, families and accused persons. Often the greatest challenges arise in intra-familial cases, where the victim and the offender have social, emotional and economic links; they have a relationship that continues throughout the court process and will exist after it is over.

In the course of the consultations of the Special Advisor with concerned people and agencies across Canada, many professionals, survivors and parents of victims expressed anger and resentment at the manner in which child sexual abuse cases are dealt with by the legal system. There were many complaints about

delays and insensitivity by lawyers, police and judges. There is a common perception that the legal system is tilted too far in favour of abusers, and sacrifices the rights and interests of children. Many people who contacted the Special Advisor provided graphic descriptions of cases in which children who had been abused were further traumatized by our legal system.

Some observers argue that the adversarial legal system can never be made responsive to the needs of children and should be abandoned. They point to the inherent conflicts between the need of the Crown Attorney to use the child as a key witness, and the child's own needs. They also point to the inevitable tension between the protection of the rights of the accused and the interests of the child. These concerns are legitimate, and long-term consideration might be given to fundamental modification of our legal structures. However, I am of the view that, even without such fundamental change, the legal system has an important role to play in combating child sexual abuse and cannot be abandoned. It is important that reforms such as Bill C-15 be given an opportunity to work. Therefore, the period from now through 1992 needs to be used to strengthen the current system. Several of the following recommendations are targeted at improving the present system. With appropriate reforms, our legal system can be made more responsive to the interests of children, without sacrificing the basic rights of those charged with abuse.

The Legal Context: Types of Proceedings

The issue of child sexual abuse can arise in a number of different legal contexts, and sometimes is dealt with simultaneously in more than one legal forum.

Those alleged to have abused a child may be subject to prosecution in the criminal courts, under various provisions of the *Criminal Code*. Criminal investigations are conducted by the police and prosecutions are carried out by Crown Attorneys. A conviction can be obtained only if abuse is proven according to the strict rules of evidence governing criminal proceedings. Abuse must be proven according to the highest standard of proof, "proof beyond a reasonable doubt." The accused must be treated in accordance with the *Canadian Charter of Rights and Freedoms*, which governs the rights of persons charged with criminal offences. A person convicted in a criminal prosecution may be imprisoned or may receive a less severe sanction such as probation. Criminal prosecutions are governed by federal legislation, although the administration of justice is a provincial/territorial responsibility.

If there is an allegation that a child has been sexually abused by a parent or guardian, there may be a civil proceeding to determine whether that person will be denied custody or access to the child. This may be a child protection proceeding, in which the child protection authorities investigate and seek to have a child removed from parental care or placed under their supervision. Sometimes a civil case involves a custody or access dispute between two separated or divorced parents, with one alleging that the other has abused the child or has permitted the child to be abused.

The issue of abuse may also arise in other civil contexts. For example, a person who works with children may be dismissed on grounds of alleged abuse, even if there is no criminal conviction; this may result in an action for wrongful dismissal where the central issue is the veracity of the abuse allegation. Or a physician may face professional discipline for sexually abusing a youthful patient.

The rules governing the admissibility of evidence in civil proceedings are not as strict as those governing criminal prosecutions. Furthermore, it is only necessary to prove abuse on the civil standard of "proof on the balance of probabilities," rather than on the higher criminal standard of proof beyond a reasonable doubt. Thus, it is easier to prove abuse in a civil case. Civil proceedings are governed by provincial/territorial legislation.

Voices

I learned early not to trust the system. In court at age six, I was told to "be an adult" and "don't lie." I was asked: Is Dad guilty? I didn't lie. Dad was given a suspended sentence. I was sent home with him and taught "don't ever speak again."

Shirley Turcotte

A Canadian Victim of Child Sexual Abuse

In some cases there are simultaneous investigations or proceedings in more than one forum. This may be inevitable, although it creates difficulties for everyone involved. It emphasizes the need for co-ordination and co-operation by responsible authorities.

It is self-evident that the federal and provincial/territorial areas of responsibility in the justice field are closely related; it may in fact be impossible to deal with jurisdictional responsibilities separately.

Thus, in addition to making recommendations for the federal jurisdiction, the Special Advisor in this chapter is also respectfully putting forward recommendations for inclusion in the policy and service discussions of other jurisdictions. It is hoped that these ideas may prove useful in the important deliberations that lie ahead.

The Criminal Justice Response to Sexual Abuse

The criminal law plays an important role in our society. It has the potential to provide protection for society through deterrence and, in appropriate cases, by incarcerating offenders. The criminal justice system can also serve a significant psychological function for victims by providing vindication or affirmation that they are not to blame. The criminal justice system may also have an important role in providing access to treatment for sexual offenders. Many abusers deny their acts until after being convicted of an offence, and even then there is a psychological

tendency to deny abuse. While there is a place for abusers voluntarily seeking treatment, it seems that all too often abusers discontinue therapy in a voluntary milieu.

Child sexual abuse is one of the most serious criminal offences. While some abusers are themselves victims of abuse and are suffering from mental or emotional disturbances, this cannot be viewed as excusing their crime. There is an important role for the treatment of offenders, but it must be treatment in the context of the dealing with someone who has committed a serious criminal offence. There may be situations in which it may not be possible to have a criminal justice response, but it must never be forgotten that each case of abuse represents a serious crime – a crime against the victim and against society.

It must be recognized that the criminal justice system cannot by itself "solve" the problem of child sexual abuse. Some abusers will not be deterred by criminal prosecution. Some abusers will not be rehabilitated in the corrections system and may again abuse after they have completed their sentences. Some children are traumatized by the investigative and court process, and their lives and those of their families are thus forever scarred by the process. While steps must be taken to reduce "system abuse" of child victims, it will be very difficult to totally eliminate it. Nevertheless, the use of the criminal justice system to its fullest extent must be an important part of the strategy for dealing with child sexual abuse.

The co-ordination and use of both social and legal interventions is necessary to minimize unnecessary interference with or disruption of the child victim, to help create a safe environment in which the child can recover, and to provide maximum leverage for the control and treatment of the offender.

One of the difficult issues that can arise in intra-familial cases relates to the attitudes or reactions of the child victims to criminal prosecutions. For example, what should be the response if a child requests that a prosecution be dropped or if he/she recants¹ (i.e., says the allegation was false)? While this is not an uncommon

situation, it often reflects a lack of support services. Children must be helped to deal with their feelings of guilt. They must be helped to realize that they are not responsible for having been abused. With appropriate support, children who request that a prosecution should be dropped usually change their minds as they come to appreciate the cause of their feelings. Child victims should not be asked whether they want parents or relatives prosecuted. This places an unfair responsibility upon them.

While child victims should not be discouraged from requesting leniency toward an abusing parent, for example, through a victim impact statement at the time of sentencing, the courts have generally held that they will not impose a more lenient sentence merely because of such a request. The courts¹ have recognized that if they act on such requests, this would result in greater pressure being placed on children to "forgive" their abusers². Similarly, in intra-familial cases, non-offending parents (invariably mothers) should not be asked whether they "want" a prosecution or jail term; this places unfair pressure and inappropriate responsibility on non-offending parents. Non-offending parents should have access to support services throughout the court process, although it must be appreciated that some will continue to deny the abuse, even in the face of incontrovertible evidence.

Recommendation 23

That in each jurisdiction there should be a clear government policy to charge and prosecute child abusers in every case where the

1 See *R.v.R.P.T.; R.v.T.S.* (1983), 10 W.C.B. 60 (Alta. C.A.), where the Alberta Court of Appeal sentenced a man to two years less a day in jail plus two years on probation for engaging in incest with his daughter over a number of years. The man had undertaken therapy after his arrest and had been reunited with this family. The daughter had "forgiven him." The Court wrote: "The offender cannot be permitted to hold the feelings of his child hostage for a lighter sentence.... If we lighten the sentence because a child victim 'forgives' her father, we are threatening the child that if she will not forgive her father we will condemn him to prison. This is not right."

2 However, if a child victim does refuse to testify against an offender at trial, the child should not be prosecuted for contempt of court; this would again victimize the child. Such a refusal to testify must be seen as a failure of the system to provide adequate support to a child.

1 The phenomenon of the victim's false recantation in response to familial pressure is analysed in R.C. Summit's 1984, "The Child Abuse Accommodation Syndrome," *Child Abuse and Neglect* 8 (4): 473-81.

Crown Attorney is satisfied that there is sufficient evidence to merit prosecution *and* that the child will not be unduly traumatized by the process.

Because of the difficulties in proving abuse, especially when the victims are very young, it must be appreciated that there will be cases where, although investigators are satisfied that abuse has occurred, they will not be prosecuted because there may be insufficient evidence. There may also be cases where, even with appropriate support services and such protective devices as closed-circuit television, there is a strong apprehension that the child will be unduly traumatized by the court process¹. In such situations the Crown Attorney, acting in consultation with other professionals and non-offending parents, may decide that the case should not proceed².

Investigation and Court Preparation

While there have been improvements in many places in Canada in recent years in the investigation of child abuse cases and the provision of court preparation services, a great deal remains to be done. In each locality, there is a need for a co-ordinated approach by trained staff. There is little point in enacting new laws if we cannot adequately prepare those who will be called upon to pioneer these changes.

Issues related to education and training are more fully discussed in Chapter 7 on Information Needed: Education, Training and Research, but it is apparent that many police, Crown Attorneys and social workers involved in child sexual abuse cases lack the knowledge, skills, training and supervision to deal effectively with these difficult cases. As a result, victims often do not receive the support and care they need, and abusers are often not successfully prosecuted.

Competent investigation is crucial to the successful prosecution of a child abuse case. If a case is well investigated, carefully documented and adequately disclosed to counsel for the accused, there will often be a guilty plea. A guilty plea spares the child the trauma of a trial and also cuts down on the expenses involved. Careful, professional investigation will also often uncover the relatively rare cases of false allegations.

There is a definite need for a co-ordinated approach to child sexual abuse cases, involving social workers, police, Crown Attorneys, child victim witness support workers, therapists and medical personnel. In a number of Canadian localities, protocols have been developed to facilitate co-ordination.

Co-ordination must go beyond simply establishing formal protocols for interagency co-ordination. The most important and difficult challenge is to establish a system of accountability to ensure that the co-ordinated approach is actually implemented at a local level. There must also be a process for periodic monitoring and review of protocols to ensure that they remain responsive and properly implemented. This co-ordination and review function should be performed by the local co-ordinating committees, as recommended in Chapter 3 on Systems: In Search of Harmony and Effectiveness.

One problem now occurring in some places in Canada is the delay of a child's therapy until after completion of criminal proceedings. In some localities, Crown Attorneys and police apparently do not want a child victim to undergo therapy until after the criminal proceedings are concluded, because there is a concern that a therapist's discussion of the incidents might be viewed as "contaminating" the child's evidence. Delaying therapy until after the completion of criminal proceedings is not acceptable. A delay until the completion of court proceedings may last for months or even years. Children need help

1 An important research topic is the effect of court proceedings on child victims, including an assessment of the impact of different types of court proceedings, support services and legislation. For a recent American study, see P.K. Runyan *et al*, "Impact of Legal Intervention on Sexually Abused Children," *Journal of Paediatrics* 113 (4): 647.

2 At present, there is a lack of clarity about the role and rights of non-offending parents in a sexual abuse case, whether it involves intra- or extra-familial abuse. While theoretically a parent who interferes with a prosecution may be charged with obstructing justice, in practice, it may be difficult or impossible to proceed with a case without the assent of a parent who continues to reside with a child. There may be situations, particularly those involving extra-familial abuse of young children, where the opposition of parents to a prosecution is based on a genuine concern for the child's welfare. Non-offending parents require support during the court process, if only as part of the process of supporting the child.

as soon as abuse is disclosed. Crown Attorneys, child protection workers and mental health professionals need to resolve this problem, without jeopardizing either the criminal proceedings or the victim's well-being.

If initial investigative interviews with a child are videotaped, this should go a long way toward dispelling the notion that subsequent therapy in some way "contaminated" the child's memory. Particular care needs to be taken when group therapy takes place prior to a criminal trial, where defence counsel may be especially prone to alleging that the victim was influenced by the accounts of other children.

Recommendation 24

That local protocols should address the problem of delay of treatment and ensure that children are not denied access to treatment pending resolution of criminal proceedings.

Police Role in Investigations

The police have a central role to play in the investigation of reported cases of child sexual abuse. Some communities have special police teams for dealing with these cases, with officers who have been trained in interviewing children and their families, and in the dynamics of child sexual abuse. They work closely with child protection workers in some localities to videotape the testimony of the victim and, in cases of intra-familial abuse, the non-offending parent. In some places, these innovations have helped to increase conviction rates.

Unfortunately, such specialized police teams are not the rule. The issue of police specialization related to child abuse has not been resolved in Canada. Many police forces still favour a generalist approach. Many police officers have had little or no orientation to the special problems of family violence and child sexual abuse. Although many effective training initiatives are under way, particularly for new police cadets, these are not common to all police training. Many experienced police officers have had minimal opportunity to update their training in areas such as child abuse, and thus there seems to be unevenness in attitudes and the priority attached to child abuse.

The RCMP, who are under contract to provide some of the police services in all of Canada's provinces and the territories outside Ontario and Quebec, takes a generalist approach. This is also the practice of provincial police detachments in some areas of Quebec and Ontario. Many municipal police departments also fail to subscribe to specialized training of officers to deal with these kinds of domestic investigations. In these forces, officers are required to handle all kinds of investigations. The result is that many of the officers involved in investigating child abuse cases lack appropriate knowledge, skills and sensitivity. Attempts to provide specialist expertise on a regional basis in rural regions as a back-up to front-line officers is often difficult to utilize, however, because of geography and other considerations.

Another problem identified during the Special Advisor's consultations with the Canadian public was the problem of police transfers. Rural areas that are dependent upon a few police officers and a fragile network of service providers face serious disruption when that officer is removed. Sometimes the replacement has little interest in or sensitivity for the problems of family violence. Police officers who are uncomfortable with family violence and who may also be uncomfortable in relating to children may not bring the necessary expertise or attitude to the investigation.

All police officers and supervisory personnel require some familiarity with issues related to domestic violence and child sexual abuse. It is particularly important that senior administrative officers have an understanding of the complexities and realities of this type of case. All police officers should have respect for the work done in this field.

Some Canadian police forces have recognized specialists or specialist teams for dealing with child sexual abuse cases. For example, the RCMP in Nova Scotia are developing a team of specially trained officers in the field of child abuse and family violence. Officers who are recruited for this type of work need special sensitivity for dealing with children and parents. While specialization need not preclude an officer from dealing with other types of cases, specialist officers usually spend at least a significant portion of their time on this type of work. In smaller police detachments, exclusive

specialization may not be feasible, but even in these detachments a certain degree of specialization is possible and desirable.

Specialization by police facilitates training and education and allows officers to gain experience in dealing with child sexual abuse allegations, including such investigative techniques as use of videotapes and anatomically correct dolls.

Specialization also gives officers an opportunity to establish vitally important linkages with other agencies and to develop team support, particularly with child protection agencies. Investigations of child sexual abuse cases require close co-operation between police and child protection workers. In some situations and localities, it may be appropriate for child protection workers to take the leading role, particularly when interviewing children and videotaping statements. This is especially true in Quebec, where child protection staff from the Directors of Youth Protection have primary responsibility for initial investigation of child abuse cases.

Recommendation 25

That all police officers and supervisory personnel receive training in issues related to child sexual abuse and domestic violence; and

That all police forces have officers who specialize in the handling of child sexual abuse cases and who have had specialized multi-disciplinary training in programs of at least one week's duration.

Issues related to the training of police officers are more fully discussed in Chapter 7 on Information Needed: Education, Training and Research.

Autopsies and Child Deaths

The death of a child as a result of abuse is a horrifying event. It is particularly disturbing when we become aware of the ways in which our systems have failed to protect children and so have contributed to their deaths. Legislation in each Canadian jurisdiction gives coroners or chief medical examiners specific authority to investigate all violent deaths and all deaths resulting from unknown causes; they are entitled

to have access to relevant information from police and child protection agency records. However, there is discretion in deciding whether an autopsy is to be performed in these cases.

In the course of consultations with the Special Advisor, a number of pediatricians recommended that autopsies or investigations be conducted for all cases of death of children or adolescents that may be the result of abuse, accident, homicide, suicide or unknown cause. There is concern that some child and adolescent deaths attributable to accident or unknown cause may in fact be a result of physical or sexual abuse. Furthermore, adolescent suicides may be attributable to sexual abuse. However, there should be discretion in deciding whether to conduct an inquiry, since there may be some situations, particularly those involving accidents, where such a process is unnecessary and intrusive. There is also a need for special sensitivity or exceptions for aboriginal children, as many native cultures have special religious and spiritual concerns about autopsies.

Recommendation 26

That legislation or policy in each Canadian jurisdiction require that an autopsy or investigation will normally be performed in cases where a child under the age of 18 dies as a result of suspected abuse, accident, homicide, suicide or unknown cause. The chief medical examiner should review all children's deaths where a child welfare agency has been involved.

Monitoring Bill C-15 and Reforming the Criminal Trial Process

Bill C-15 was enacted by Parliament in June 1987 and came into effect on January 1, 1988. This legislation reformed many of the old laws governing child sexual abuse prosecutions. The old laws discriminated against children, regarding their evidence as inherently unreliable. The law also failed to recognize the special needs of children.

A special legal framework governing child sexual abuse, including specific offences and provisions to facilitate the collection and presentation of children's evidence is justified. Such a framework would acknowledge the

special needs created by children's vulnerability to sexual abuse and their different developmental stages.

The major evidentiary and procedural reforms of Bill C-15 involve:

- eliminating barriers to testimony by children, in particular by eliminating the corroboration requirement, and enacting the "ability to communicate" test for determining the competence of children to testify in court;
- permitting use of the videotape of an interview with the victim in which the child describes the acts complained of, provided that the tape is/was made "within a reasonable time" of the acts complained of and that the child testifies in court; and
- allowing a child to testify via closed-circuit television or from behind a screen, if this is "necessary to obtain a full and candid account" of the acts complained of.

Bill C-15 marks a significant improvement in the substantive and procedural law governing child sexual abuse prosecutions. While there remain very important issues, Parliament is to be commended for beginning the process of law reform.

Monitoring and Parliamentary Review

According to Bill C-15, the operation of the new law is to be reviewed by a parliamentary committee in 1992. Although the exact nature of the review remains unclear, it seems desirable that the committee have authority to study all aspects of the substantive, procedural and evidentiary laws governing child sexual abuse prosecutions. Various organizations, including representatives of criminal defence counsel, have indicated an intention to present briefs to Parliament to advocate elimination of some of the reforms contained in Bill C-15. Advocates for children may have to argue forcefully merely to maintain the status quo, let alone to achieve further, badly needed reforms.

Although it is encouraging that the federal government is undertaking to "monitor" the implementation of Bill C-15 and the prosecution of child abuse cases in anticipation of the 1992 review, the adequacy of this "monitoring" was questioned by some people

during the Special Advisor's consultation process. It was felt that, while the provinces and territories have primary responsibility for the implementation of the legislation, the federal government has an important leadership role in the implementation of Bill C-15, and that this role was not always being fulfilled.

Recommendation 27

That the federal government fund and assess model programs, and collect and disseminate information about successes and problems with implementation of Bill C-15. In particular, the federal government should provide leadership in training, monitoring and disseminating information with regard to the use of videotapes, closed-circuit television and screens, and in the acceptance of child witnesses and their preparation and support in court.

Constitutional Challenges to Bill C-15

It is inevitable that some of the provisions of Bill C-15 will be challenged in the courts as violating the *Canadian Charter of Rights and Freedoms*. This is not a reflection of this particular piece of legislation, but rather is typical of our legal system.

Even if provisions of Bill C-15 are ruled unconstitutional, this does not mean that the original intent behind the new law should be abandoned. For example, paragraph 179(1)(b) of the *Criminal Code*, which was amended as part of Bill C-15, makes it an offence for any person previously convicted of any sexual offence to be "found loitering in or near a school ground, play-ground, public park or bathing area." This section applies to adult and young offenders. It was ruled unconstitutional by a British Columbia Provincial Court judge in *R. v. Graff*¹. The provision is based on a fundamentally sound and constitutionally acceptable premise behind paragraph 179(1)(b). Those with a history of abuse may have their freedom restricted to reduce the potential for future abuse, even after their release

1 *Lawyers Weekly*, October 7, 1988, p. 6 (full text 819-014).

from prison. However, child advocacy organizations warned the parliamentary committee during the hearings on Bill C-15 in 1986-87 that paragraph 179(1)(b) was drafted too broadly. If the court ruling regarding paragraph 179(1)(b) is upheld, the principle of restricting the freedom of abusers to enhance the protection of children should not be abandoned, although it will have to be refined. It may, for example, be necessary to have longer probation periods, directed at specific offenders with specific conditions, rather than a vague, all-encompassing provision such as paragraph 179(1)(b).

Another example is the videotape provision, section 715.1, which was ruled unconstitutional in the Alberta Queen's Bench decision of *R. v. Thompson*¹. The court noted that as drafted the provision applied to any case where a child was under 18 when an offence was alleged to have occurred, and was overly broad. The judge specifically indicated that this provision would be constitutionally valid if it applied only to younger children who were likely to be unable to fully communicate with the court without the assistance of a videotape.

These are only trial decisions, and they may not be upheld by the appellate courts. The federal government did not intervene in either case to defend the legislation. If, however, the decisions are upheld on appeal, it will be necessary for Parliament to take steps to amend the legislation to comply with the Canadian Constitution, while maintaining the essential intent of the earlier reforms.

Recommendation 28

That the federal Department of Justice should monitor challenges to Bill C-15 under the Canadian Charter of Rights and Freedoms and actively defend the legislation against constitutional attack. The federal government should exercise its right of intervention in cases where there are Charter challenges, ensuring that trial judges receive appropriate evidence about the need for and validity of this type of legislation; and

That, if provisions of the new law are ruled unconstitutional, they should be redrafted and re-enacted to meet constitutional requirements and not be simply abandoned.

Reforms for 1992

It is apparent that further parliamentary reforms will be required to make the criminal trial process more responsive to children, without sacrificing the constitutional rights of the accused. Some of the areas where further legislative action are discussed below.

Use of Experts in Investigations

As part of an investigation into sexual abuse allegations, a child is sometimes assessed by a psychologist, psychiatrist or other mental health professional who is prepared to offer an opinion about the reliability of a child's statements. Qualified experts can also explain the significance of delayed or incomplete disclosure, which in the absence of explanation might be considered damaging to a child's credibility. They are able to describe the "child sexual abuse accommodation syndrome" and the phenomenon of "recanting," or the false retraction of a prior allegation as a result of family pressure. This type of evidence may also support a child's credibility. Qualified experts who are trained to help and support disabled children during investigation are important in these cases.

Expert evidence of this type is normally admissible in a civil case. The defence in a criminal case is almost always permitted to call expert witnesses to challenge a child's credibility. Some judges in criminal cases have allowed mental health experts who have assessed the

¹ See *R.v. Thompson* (1989), 68 C.R. (3d) 328; see accompanying annotation by N. Bala, at 335-340, which questions the result in *Thompson*.

child to testify for the Crown, but many judges will not allow the Crown to call this type of evidence¹.

Canadian law should allow either the Crown or defence to call this type of evidence, provided the judge is satisfied as to witness's "expertise." In a number of American states, such evidence is admissible².

Child's Out-of-Court Statements

A child's initial out-of-court disclosure of abuse is often graphic and compelling. Such a statement is never recorded on videotape, since by its very nature it is "unexpected."

Some courts have shown considerable flexibility in admitting the child's out-of-court statements, particularly in situations where the statement was made soon after the abuse occurred³. However, there is concern that the

rules of evidence precluding admission of "hearsay evidence" and "previous consistent statements" will make courts reluctant to receive this type of evidence.

Canada's Parliament should follow the lead of many American states and enact legislation to permit witnesses to give testimony about a child's out-of-court statements. It may be appropriate to give judges discretion with regard to the admission of such statements, for example, to preclude the admission of a statement that could reasonably have been videotaped or one that was not made within a reasonable time after the offence, or to require that the child be a witness or be unable to testify.

Videotapes, Closed-Circuit TV and Screens

It is significant that the *Criminal Code* was amended in Bill C-15 to facilitate testimony by complainants (i.e., victims) in child sexual abuse cases through the use of screens, closed-circuit television and videotapes. The *Criminal Code* should be amended so that other child witnesses, such as the sibling of a victim, can also be assisted in this way.

The judicial interpretation of these innovative provisions will have to be monitored, and further redrafting may be needed. For example, some judges have taken a very restrictive interpretation of subsection 486(2.1), which requires the Crown to prove that the child has a specific fear of the accused before permitting testimony via closed-circuit television or from behind a screen. With young children, it should be sufficient for the Crown to establish that use of a screen or closed-circuit television is "necessary to obtain a full and candid account," whether the concern is a fear of the accused or of the courtroom itself.

Bail Conditions

When a person is charged with any offence, our bail law normally requires that the accused be released pending trial. This accords with the presumption of innocence.

1 In *R. v. Kostuck* (1986), 29 C.C.C. (3d) 198 (Man. C.A.), the Manitoba Court of Appeal acquitted the accused where the trial judge admitted testimony from a psychologist: "a witness, expert or otherwise, may not testify that...any other witness, including the complainant...is likely telling the truth." See also *R. v. Taylor* (1986), 57 O.R. (2d) 737 (C.A.), on the scope of the accused's right to call witnesses challenging the credibility of the victim of sexual abuse, and the Crown's limited right of reply. For more recent cases taking a more flexible approach to the Crown's right to call expert witnesses, see *R. v. Belliveau* (1986), 30 C.C.C. (3d) 193 (B.C.C.A.); and *R. v. G.B.* (1988), 65 Sask. R. 134 (Sask. C.A.), concurring judgment of Wakeling J.A.

2 For an article explaining the law in the United States and discussing situations where such evidence may be useful, see B. Gardner, "Prosecutors Should Think Twice Before Using Experts in Child Sexual Abuses Cases," *Criminal Justice* 3 (3): 12 (American Bar Association, Section of Criminal Justice, 1988).

3 See *R. v. Khan* (1988), 27 O.A.C. 142 (Ont. C.A.), where the 'spontaneous declaration' exception to the hearsay rule permitted the mother to relate a statement made by her three-and-a-half-year-old child 15 minutes after the alleged assault. In *R. v. Malette* (1988), 6 W.C.B. (2d) 341 (Ont. Dist. Ct.), a statement made by a three-and-a-half-year-old child to her mother nine hours after an alleged assault was also admitted as a "spontaneous declaration." In *R. v. Owens* (1986), 33 C.C.C. (3d) 275 (Ont. C.A.), statements made by young boys to their parents several hours after abuse were admitted for the purpose of buttressing their credibility.

Voices

We believe very strongly that in cases of incest or intrafamilial molestation, it should be the accused and not the victim who is forced to leave the home pending trial. Placing us in care tells us that we have done something wrong and that we are being punished. We have committed no crime! Concern over the accused's "property rights" is not a valid reason for depriving us of our right to a real family.

National Youth in Care Network¹

The law should, however, be clarified to make clear that persons charged with sexual abuse offences may be ordered out of their homes pending trial, if this is felt to be reasonably necessary to protect a child. Some judges are apparently unwilling to deprive alleged abusers of their "property rights" and instead call for the removal of victims of intra-familial abuse from their homes pending a resolution of their cases.

It should also be made clear that orders can be made to prohibit an accused person from associating with particular children pending trial. Some criminal court judges are unwilling to order such bail conditions, since it is felt that the civil courts should deal with this issue as part of a child protection or access case. Requiring such matters to be dealt with in that way may result in an unnecessary multiplicity of proceedings.

Child Support Persons in the Court Room

There are situations in which it is desirable to have a social worker or other friendly but "neutral" adult visible to the child, or even sitting beside a young child who is testifying. While some judges have permitted this, others have

not. There have been cases where the judge has ordered supportive persons to leave the court room, along with other members of "the public."

Legislation may be needed to recognize that a judge may allow a young child (under 12 years of age) to be accompanied to the witness stand by an adult, and to allow relatives or other supportive adults to remain in the court room, even if the court room is closed to the public.

Consideration should also be given to the enactment of legislation similar to that in a number of American states whereby a lawyer may be appointed to represent a child victim in a criminal prosecution¹. If such a provision were to be enacted, there should be a discretion as to whether counsel is appointed; it would not be appropriate in every case, but only in those situations where the child or another responsible adult was concerned that the Crown Attorney might not adequately protect the child's interests.

In the United States, the child's lawyer primarily serves in a liaison and support function, but may also bring a motion in court, for example, to allow testimony behind a screen or to request a brief recess when a child is obviously weary. In Canada, one might expect such functions to be performed by Crown prosecutors, but too often this is not the case.

Recommendation 29

That Parliament reform the laws governing child sexual abuse prosecutions to:

- permit qualified experts to testify about the characteristics and dynamics of sexual abuse, and to express opinions on the reliability of a child's statements;
- permit witnesses to testify about the out-of-court statements made by a child about allegations of abuse;
- permit judges dealing with bail hearings to order that persons charged with sexual offences against children vacate their premises, if this is necessary to promote the interests of a child, and to order that such persons not associate with particular children pending trial;

1 Brian Raychaba, "We Got a Life Sentence: A Letter to Rix Rogers" (Ottawa: National Youth in Care Network, May 21, 1989).

1 See D. Whitcomb, *Guardians Ad Litem in Criminal Courts* (Washington, D.C.: National Institute of Justice, 1988).

- permit judges to allow an adult to accompany a child under age 12 to the witness stand, provided that this is necessary to ensure the child is not intimidated by the process and that this is not prejudicial to the rights of the accused to a fair trial; and
- permit use of videotapes of a prior statement by any child witnesses in a child sexual abuse prosecution.

Recommendation 30

That Parliament study the improvement of the laws governing child sexual abuse prosecutions in particular, with reference to:

- ensuring that the videotape, screen and closed-circuit television provisions are effective; and
- considering the possibility of permitting the appointment and participation of counsel to protect the needs and interests of children.

With regard to a number of issues raised here, it may be argued that legislative intervention is not required, since *some* Canadian judges are already demonstrating flexibility and sensitivity. However, there is a real concern that, unless legislation is enacted, the pace of change will be very slow and uneven. Furthermore, gains achieved by a process of making trial judges more sensitive to the special needs involved in cases of child sexual abuse may be reversed if appellate courts are concerned about changes made to the "traditional" rules without legislative authority.

Improving the Criminal Trial Process: Issues in the Administration of Justice

Provincial/territorial governments have constitutional responsibility for the administration of justice, which includes the implementation of Bill C-15. There is very significant variation in how different jurisdictions have decided to implement Bill C-15.

All provinces and territories have taken some steps to implement the new law. Quebec, New Brunswick, Manitoba and British Columbia

appear to be taking a leadership role in terms of using videotapes, screens and closed-circuit television, co-ordinating investigations, and providing support services for child victim witnesses. In some other provinces, the governments have been much slower to implement the new law. In a number of Canadian jurisdictions, the implementation of Bill C-15 has depended more on the initiative of local Crown Attorneys, police and child victim witness advocates than on province-wide policy. For example, in Ontario, screens, closed-circuit television and videotapes appear to have been used relatively rarely, although some individual Crown Attorneys and police forces have been making use of these innovations.

An important issue related to Crown Attorneys is the issue of continuity on child sexual abuse cases (i.e., having the same Crown Attorneys handling the preliminary hearing and the trial). In many instances, the same Crown Attorney is not assigned to follow through on a case. This happens for a variety of reasons, usually because of scheduling or administrative problems. The result, however, is that the child is often further traumatized by the change. Continuity, if at all possible, should be the policy in the assignment of Crown Attorneys in cases of child sexual abuse.

An important development in Canada has been the establishment of child victim witness support programs. In some localities, workers in these programs are involved as soon as the police investigate a case, whereas in others they become involved only as a case progresses toward court. Victim support workers typically tell children and caregivers about the court process, prepare them for the court experience, accompany them to court, and sometimes provide counselling afterward. The workers are generally trained to ensure that they are not "coaching" the children about their testimony; detailed preparation for testifying is the responsibility of the Crown Attorney.

Some jurisdictions have no child victim support workers, and in others the programs are located in only a few centres.

In some places in Canada, a Crown Attorney is assigned to each child abuse case at the time of first appearance and continues to be responsible for the case through the preliminary inquiry and trial. This is extremely important for this type of case, as the child and non-offending parent will establish a relationship of trust and a

feeling of security with one lawyer. All jurisdictions in Canada should have policies to ensure that there is continuity by Crown Attorneys in the handling of these cases.

Recommendation 31

That provincial/territorial governments take steps to ensure the effective implementation of Bill C-15, including jurisdiction-wide access to videotaping, closed-circuit TV, screens, child victim witness support programs, and Crown continuity in the handling of child abuse cases.

Beyond ensuring that services are adequately provided throughout the jurisdiction, provincial/territorial governments can take some specific steps to improve the administration of justice, as outlined below.

Use of Experts as Courtroom Witnesses

Medical specialists, psychiatrists, psychologists, or other mental health experts may play a crucial role in the investigation of child sexual abuse cases. They are not infrequently called as witnesses in child sexual abuse cases, both civil and criminal.

Greater sensitivity has to be shown to the needs of busy professionals. This includes a degree of flexibility in terms of scheduling court time for them to testify. It also means that professionals in private practice who come to testify in court must be adequately compensated. Quebec adequately compensates professionals who are required to spend time away from their practices in the courtroom and at the courthouse waiting to testify. In other jurisdictions, adequate compensation may not be provided; in these jurisdictions, professionals understandably are particularly reluctant to become involved in cases that even *might* go to court, as they may be financially penalized.

It is difficult enough to attract medical and mental health professionals to deal with child sexual abuse cases, especially those that may result in judicial proceedings. The prospect of participation in adversarial proceedings, where their competence and even good faith will be challenged, has a dampening effect on the willingness of these professionals to do this type

of work. At very least, expert witnesses must be adequately compensated. Doctors and other mental health professionals who come to court to testify on behalf of abused children are doing as much for society as those who stay in their offices; they deserve equal compensation from society. There is also a need for adequate training for professionals who serve as expert witnesses.

Recommendation 32

That those responsible for the administration of justice in each jurisdiction ensure that policies are established to show sensitivity to the needs of professionals called upon to testify in child sexual abuse cases. There must be respect for professional needs when scheduling court appearances, as well as reasonable compensation.

Expediting Abuse Cases

In some jurisdictions, child sexual abuse cases do not come to trial until one to two years after the reporting of the alleged offence. Delay in this type of case is particularly stressful for victims and their families. Therapy and placement of the child are sometimes kept in suspension until the criminal case is resolved. A person falsely accused of child sexual abuse also suffers from delay.

While delay is a problem in any criminal case, this is particularly so in child sexual abuse cases. A young child's memory is generally not as well developed as an adult's, and the ability to recall details, which may be crucial to support credibility, will diminish over time.

Quebec, Manitoba and several American jurisdictions have policies to expedite prosecution of child sexual abuse case. These policies appear to be having positive effects on children.

Recommendation 33

That provincial/territorial attorneys general develop policies to give priority in court scheduling to child sexual abuse cases.

Implementation of such a policy will require consultation with the Bar associations and judicial councils.

Courtrooms and Courthouses

The design, furniture and layout of courtrooms should be modified to accommodate children and other vulnerable witnesses. Courthouses may also have to be redesigned so that children and other victims of crime can enter the building and wait for their case, without having to be confronted in the hallway by the accused and members of his family. In a recent British Columbia case, a six-year-old victim of child sexual abuse was confronted by the presence of the accused in the hallway; she was so terrified and upset that the Crown decided not to call her as a witness, even though the Crown Attorney had planned to use closed-circuit television to allow her to testify.

Waiting areas should be designed and equipped with children in mind. Quebec is redesigning at least one courtroom in Montreal to be specially suited for child witnesses, and a number of American jurisdictions have special courtrooms for child sexual abuse cases.

Obviously, reconstruction of courtrooms and courthouses will have to occur gradually. Some alterations can be made relatively inexpensively and quickly; others may have to be undertaken more gradually. It is disturbing that some recently constructed courthouses have not been designed with more sensitivity to the needs of child witnesses. Certainly, any new court-houses should be constructed with children in mind.

Recommendation 34

That the federal Department of Justice commission an architectural study of developments in courtroom and courthouse design and promote the construction of facilities sensitive to the needs of children and other vulnerable witnesses.

The study should be made available to all provincial/territorial governments. Appropriate cost-sharing mechanisms might also be considered for model construction projects.

If such an initiative is deemed to be beyond the statutory authority of the federal department, a request for such an initiative by the federal department should be sought from the provinces and territories.

Judges

Judges play a key role in the criminal trial process. They must ensure that trials are fairly conducted. This of course requires protecting the rights of the accused. It also requires respecting the needs of witnesses in order to ensure that they can fairly testify.

Unfortunately, some judges have demonstrated considerable insensitivity to child witnesses. Some judges seem insensitive to such issues as the attention span of child witnesses and their ability to meaningfully respond to questions asked in a complex or confusing fashion¹. For example, with child witnesses, questioners should avoid asking questions containing a negative or double negative. There should be relatively frequent breaks in questioning, though these breaks need not be long.

Some judges also appear to need education into the long-term effects of child sexual abuse on victims, as this may affect the conduct of trials and sentencing patterns. The best way to change judicial attitudes and practices is through education.

1 In *R. v. G.B.* (1988), 65 Sask. R. 134 (Sask. C.A.), Justice Wakeling of the Saskatchewan Court of Appeal commented on the conduct of trials involving three victims of sexual abuse, aged five to eight years (at 150): "I am unable to set forth guidelines of general application, and indeed I can do no more than make the general comment that I am of the opinion the trial judge erred in utilizing and applying strictly an adult standard for the assessment of credibility of the youths that appeared before him. Although the cross-examination was conducted quite reasonably in these trials (but sometimes by as many as three counsel), I find it unremarkable that the youthful witness would eventually find shelter in silence or simple agreement with counsel's suggestions. Nor do I find it difficult to understand that the trauma resulting from the incidents of assault would prevent a witness from having an accurate and detailed recall of the event, even if it were being recalled on the day it occurred. In the same way that adult standards would not be suitable to gauge the conduct of youths in physical, mental, social, or other aspects of human activity, it is equally unacceptable that such a standard be applied without modification when measuring the credibility of their testimony."

Recommendation 35

That the National Judicial Education Centre in Ottawa and provincial and national judges' associations ensure that judicial education programs include a study of the legal issues related to child sexual abuse, the dynamics of child abuse, and the needs and capabilities of child witnesses.

These educational efforts will have to be periodically repeated in order to educate new judges and to make all judges aware of recent developments.

Defence Lawyers

While defence counsel have a primary duty to their clients, they also have a duty to the court along with judges and Crown Attorneys to respect the court and to avoid needless abuse or harassment of witnesses. At present, no Canadian law society has ethical rules dealing specifically with the treatment of children and other vulnerable witnesses. Until now the Canadian Bar Association has been reluctant to take up the proposal of the Canadian Council on Children and Youth that models developed by the American Bar Association and lawyers in other countries for the treatment of child witnesses should be modified for use in Canada.

Recommendation 36

That the federal Department of Justice fund a project to study the ethical issues for lawyers in child abuse cases and the ethics codes of other jurisdictions with regard to this type of case. A model ethics code for dealing with children and other vulnerable witnesses should be developed and circulated to all provincial/territorial law societies and to the Canadian Bar Association for discussion and possible adoption.

This project should be carried out under the supervision of a group including representatives of defence counsel, Crown Attorneys and child advocates, and should be broadly based geographically.

It is also clear that defence counsel, along with all other court-related professionals, would greatly benefit from having a greater understanding of the dynamics of child sexual abuse

and child development. This would assist them in dealing with sentencing issues and guilty pleas, as well as in examining experts and uncovering "false allegations." The effective cross-examination of children need not involve intimidation and harassment. Intimidation of a child by defence counsel may not be effective for convincing a judge or jury, but it can nevertheless be very traumatic for a child.

The Convicted Offender

Sentencing in Criminal Court

Many of those who contacted the Special Advisor expressed concerns about issues related to the sentencing of offenders and their treatment, or lack thereof, in the corrections system.

One commonly expressed sentiment was that some judges do not seem to regard child sexual abuse as a serious offence. While many judges regard sexual abuse as a serious offence and normally impose a term of imprisonment, some judges seem to regard "non-violent" situations as ones in which the child has "not

Voices

Child sexual abuse is one of the most serious and damaging criminal offences. We are violated and hurt in a most private manner. Why does sentencing for convicted perpetrators not reflect this? One young woman in our group spoke of how the individual who molested her received a one-year suspended sentence. Is child sexual abuse a crime or isn't it? We question whether the legal system at this point in time really believes that it is. Regardless of what happens to the offender, we receive a "life sentence." National Youth in Care Network¹

1 Raychaba, "We Got a Life Sentence."

been seriously harmed," thus meriting lenient treatment for the accused. In sentencing, some judges appear to be unaware of the detrimental long-term effects of sexual abuse on children, or may regard intra-familial abuse cases as inappropriate for jail sentences.

Recommendation 37

That sentencing judges receive information about the damaging long-term effects of child sexual abuse. This information should be imparted in judicial education programs as well as in individual cases through evidence at sentencing hearings.

Treatment

There is clearly a need for treatment to be available for offenders, both in the correctional system and for those on probation and parole. Offenders who have not been treated are probably more likely to reoffend upon release. Further, many offenders were themselves victims of child abuse and, while this cannot justify or excuse their actions, society should be compassionate in its treatment of those whom it earlier failed to protect as children. It should be remembered that, when those who are now adult offenders were children, society did not fully recognize or deal effectively with child abuse.

When sentencing offenders, judges often have only very limited information about their backgrounds and amenability to treatment. Judges often lack information about available resources to treat the offender in the corrections system. The absence of this type of information may produce inappropriate sentences.

One disturbing aspect of the justice system is that judges who sentence offenders frequently recommend that treatment be provided to offenders, but this is not provided by correctional officials. At present, judges cannot order that treatment services be provided to offenders who are being incarcerated.

A number of incarcerated sexual offenders in Ontario who are not receiving treatment have begun litigation under the *Canadian Charter of Rights and Freedoms* to compel the government to provide services¹. In the United States, courts have held in certain circumstances

that those who are incarcerated by the state and in need of treatment have a constitutional "right to treatment." While it is not useful or appropriate to make treatment compulsory, incarcerated offenders who are willing to undergo treatment should have access to it, if necessary by order of a sentencing judge. Though judges should not be able to prescribe details of treatment, they should have the authority to be able to stipulate that certain offenders will have access to treatment. The failure to make an order should not preclude an offender from receiving treatment.

Recommendation 38

That federal and provincial/territorial corrections departments ensure that convicted child abusers have access to treatment services;

That provincial/territorial treatment services should eventually be eligible for federal cost-sharing (see Recommendation 8);

That sentencing judges be provided with appropriate information about child abusers and available resources, and that they have the jurisdiction to order a pre-sentence assessment prepared by a mental health professional or assessment team;

That federal legislation be amended to permit judges to order that treatment services be available to offenders; and

That the pre-sentence assessment be forwarded to correctional authorities responsible for the management and treatment of the offender following sentencing.

In making this recommendation, it is recognized that a judge is not likely to be in a position to designate specific treatment orders. This more properly is the prerogative of correctional jurisdictions. What is being proposed here is the principle that offenders who are willing do have access to treatment. The issue of assessment is discussed more fully in Chapter 6 on The Challenges of Healing and Treatment.

Experimentation in Sentencing

Many of those involved in the legal system and corrections field in Canada believe there is a need for experimentation with innovative approaches for dealing with abusers. This is particularly so in intra-familial cases, where

¹ Federal inmates launch action for 'right to treatment', *Lawyers Weekly*, July 7, 1989, p. 8.

even with appropriate supports the child victim may feel a sense of guilt if the offender is imprisoned, and may also suffer economically from the offender's imprisonment.

An innovative program has been developed in Hinton, Alberta, by Judge Porter, a local Criminal Court judge. In intra-familial abuse cases, after conviction this judge may, with the consent of the accused, delay sentencing while assessment and treatment of the offender are undertaken. If a favourable report is received, Judge Porter may decide not to impose the typical prison sentence, but rather may impose a probation order, with strict conditions regarding treatment and supervision, sometimes combined with a relatively short jail term. Offenders placed on probation are strictly supervised and, if they do not continue in treatment, they are returned to court on breach of probation orders. In practice, lawyers in Hinton often advise clients who intend to plead guilty to begin treatment shortly after arrest, without waiting for a conviction. This program seems to be quite effective¹.

In 1989, the Ottawa Crown Attorney began a program, in consultation with child protection authorities, of delaying the taking of a plea in some intra-familial abuse cases, with the consent of the accused. During this time, assessment and treatment may be commenced with the co-operation of police and child protection workers. In appropriate cases, there may be a later recommendation for probation or a short jail term rather than lengthy imprisonment.

It should be emphasized that none of these programs involves "voluntary" treatment being undertaken in return for charges being dropped. These experiments all involve pursuing the original process and securing a criminal conviction. The record of abusers completing purely voluntary treatment is poor. Society demands use of the criminal process, but the needs of offenders and victims merit experimentation with sentencing options.

1 The Hinton program has received favourable assessment. See, for example, Dr. J. Hornick, "An Evaluation of the Edmonton Region Child Sexual Abuse Treatment Agencies: Yellowhead Family Sexual Assault Program," (Calgary: University of Calgary, Canadian Research Institute for Law and the Family, 1987).

Recommendation 39

That provincial/territorial justice and corrections officials be encouraged to establish experimental post-charge programs for dealing with offenders. These programs should be carefully studied and monitored. Their success may eventually justify legislative amendments and more widespread programs.

Probation

There is a need for more flexibility in sentencing options. In particular, the maximum of three years' probation is inadequate for many sexual offenders. The period must be lengthened by Parliament. Some offenders may require lifetime supervision and control. Furthermore, resources must be devoted to ensuring that offenders who are on probation are adequately treated and monitored. Too often at present, in many localities, offenders are placed on probation with a condition that they receive treatment, but this does not in fact occur.

This problem is elaborated in Chapter 6 on *The Challenges of Healing and Treatment*. However, it should be noted here that there is a consensus among experts that there is no "cure" for sex offenders, and that the prevailing position is an "addiction model," with long-term treatment and management of risk.

Recommendation 40

That Parliament amend the *Criminal Code* to allow judges to order probation terms of up to life for those convicted of sexual offences; and

That probation services ensure that those on probation orders actually comply with the terms of their orders.

Parole

While treatment services must be available to offenders, there cannot be compulsory treatment for offenders. Some forms of treatment may be ineffective if mandatory (e.g., group or individual counselling), and others (e.g., castration) are offensive on civil libertarian grounds. Further, with scarce resources, it would not be appropriate to expend resources on those

who are unwilling to receive treatment. However, the failure of an offender to undergo treatment should clearly affect parole eligibility.

It is apparent that some abusers are resistant to treatment, either because of unwillingness to participate or because treatment is not successful. These offenders pose a continuing threat to society and its children, although it must be appreciated that it is not always possible to accurately identify those who will reoffend and that some abusers will not reoffend, even if they have not undergone treatment.

At present, an offender who is not released on parole (i.e., one who is "gated") will eventually be released without support or supervision. Inmates who are released on parole lose support and supervision when the time of their original prison sentence has elapsed. Even those who are released on parole often do not receive adequate support services. It is vitally important that offenders released into the community have adequate treatment and support. The risk of reoffending is highest in the stressful period following release from prison.

Recommendation 41

That parole legislation be amended to allow longer periods of supervision and support beyond the warrant expiry date for those released from prison following commission of a child sexual abuse offence. It is important that supervision and support in the community following release from custody apply to adolescent offenders sentenced under the *Young Offenders Act*;

That parole staff and board members receive adequate training in the characteristics and treatment of those who sexually abuse children; and

That released offenders have adequate access to community-based treatment resources.

Civil Proceedings

Child Protection

Provincial/territorial governments have the responsibility for regulating the conduct of child protection proceedings. These proceedings are often crucial in determining the future

welfare of victims of intra-familial abuse. Civil proceedings do not assist children abused outside the family.

In a number of Canadian jurisdictions, child protection legislation applies only to children under 16 years of age. Youths aged 16 or 17 are often in limbo, no longer eligible for children's services, yet also not eligible for adult benefits and services. Serious consideration should be given to providing protection services for youths up to the age of 18 throughout the country. This would be consistent with the age of majority, as well as with Bill C-15 and the *Young Offenders Act*. It would considerably assist in dealing with the problems of runaways, abused adolescents and juvenile prostitutes. Naturally, legislation, programs and facilities for older adolescents must reflect their special needs, their growing maturity and their civil rights.

Recommendation 42

That provincial/territorial governments ensure that adequate services are provided to 16- and 17-year-old adolescents who have been victims of abuse. Consideration should be given in each jurisdiction to ensuring that child protection legislation and services are applicable until a youth reaches the age of 18.

Child protection and criminal proceedings are closely linked in cases of intra-familial abuse. Co-ordination of investigation and provision of support services is essential, and in many localities there is an overlap of personnel involved in the two proceedings. Child protection staff should be working closely with criminal justice personnel and should be consulted about such issues as the initial decision to lay a charge, possible bail conditions and Crown submissions with regard to sentencing. The issue of local co-ordination is more fully dealt with in Chapter 3 on Systems: In Search of Harmony and Effectiveness.

In theory, it should be easier in a civil case to prove that there has been abuse than in a criminal trial. The standard of proof is lower in the civil case, "proof on the balance of probabilities" rather than the higher criminal standard of "proof beyond a reasonable doubt." The *Canadian Charter of Rights and Freedoms* places more constraints on the conduct of a criminal case, and the rules of evidence are stricter. However, in enacting Bill C-15, the federal

Parliament amended some of the traditional rules of evidence and procedure applicable to criminal prosecutions for child sexual abuse, for example, eliminating the rules for corroboration, simplifying the process for allowing young children to testify, and permitting use of videotapes, closed-circuit television and screens. Some provincial legislatures have enacted similar reforms to their child protection laws, facilitating proof and reducing trauma to children involved in proceedings¹. Further, judges in some provinces have demonstrated considerable flexibility in the admission of children's out-of-court statements and other evidence in child protection proceedings².

However, in other jurisdictions, the courts and legislatures have shown less sensitivity. Laws governing civil proceedings in these jurisdictions discriminate against child witnesses and are not sensitive to their needs; these laws need to be reformed. It should, for example, be possible for a court to receive evidence of out-of-court statements of a child and for videotapes of a young child's statement to be shown in a civil proceeding.

Children who do not understand the nature of an oath but who have the "ability to communicate" in court should be permitted to testify in civil cases, upon promising to tell the truth, without the need for corroborative evidence. This is the standard applicable in criminal cases; the standard should be no higher for civil cases.

Reforms must, of course, continue to ensure that even in a civil context those alleged to have abused a child receive fair trials.

Recommendation 43

That provincial/territorial governments amend their legislation to facilitate the giving of evidence by children in civil cases. They should expand the scope for use of videotapes and out-of-court statements of children, and should at least ensure that child witnesses receive all the benefits of Bill C-15.

1 See, for example, *Nova Scotia Children's Services Act*, s.76A, as amended by Bill 81, 1988, 54th Assembly, 4th Session, not yet proclaimed in force.

2 See, for example, *D.R.H. v. Superintendent of Child Welfare* (1984), 41 R.F.L. (2d) 337 (B.C.C.A.), leave to appeal to S.C.C. dismissed, 42 R.F.L. (2d) XXXV; and D. A. R. Thompson, "Taking Children and Facts Seriously," *Canadian Journal Family Law* 7 (11): 54-75.

One of the difficult issues that can arise if there are parallel child protection and criminal proceedings is deciding which proceeding should be resolved "first." Frequently criminal defence counsel, and sometimes Crown Attorneys, will want the civil case delayed. There may be a concern that the prior giving of evidence in a civil case may "prejudice" the criminal prosecution, although section 13 of the *Canadian Charter of Rights and Freedoms* ensures that no evidence given by accused persons in a civil hearing can be used against them in subsequent criminal prosecutions.

From the child's perspective, it is generally desirable to resolve the civil proceeding as quickly as possible. These cases can usually be resolved more expeditiously, since Family Courts tend to be less cumbersome and clogged than criminal courts. The child's future should be determined as expeditiously as possible; this sometimes requires a relatively speedy civil hearing.

Further, it is usually easier to prove abuse in a child protection proceeding; the civil rules of evidence and burden of proof generally make it easier to prove abuse in this setting. Proving abuse in a civil case may give the child an important psychological boost before a criminal trial.

In theory, the proceedings are quite separate, and an acquittal in the criminal case should not be relevant to a civil case, where there is a lower burden of proof. In fact, some Family Court judges seem to be influenced by a prior acquittal in Criminal Court. This too suggests the civil case should be resolved first. It should be noted that an earlier civil finding of abuse is clearly inadmissible in a later criminal trial, and so there is no prejudice from an earlier civil trial.

In New Brunswick, there is a policy of conducting a child protection proceeding first, if this is possible. This would be a good practice to follow everywhere in the country, though there needs to be flexibility in its application.

Provincial child protection legislation should specify that, if there is a transcript available from a prior criminal trial for abuse, evidence from that trial is admissible without necessarily requiring witnesses to be heard again; Saskatchewan law now has such a provision¹.

1 *The Child and Family Services Act*, S. S. 1988, s. 30.

Recommendation 44

That child abuse protocols deal with issues related to parallel civil and criminal proceedings, and ensure that decisions about a child's welfare are not postponed solely to satisfy the needs of the criminal justice system; and

That provincial/territorial legislatures enact legislation to render admissible in a child protection case transcripts from a prior criminal trial.

Custody and Access Disputes

The issue of child sexual abuse may also arise in a civil custody or access dispute between separated or divorced parents. One parent may allege that the other parent, or a new partner of the other, has abused the child and hence should be denied custody or access. These types of cases are often especially difficult, because there is a background of distrust and hostility, and children may feel torn between their parents¹. Often the police and child protection authorities have some involvement in such situations, and there is the possibility of parallel proceedings to deal with the same question of whether or not abuse occurred. Sometimes this may be difficult or impossible to determine whether the abuse occurred, especially if the children are very young and unable to communicate effectively.

There are not always parallel proceedings. If the child is very young (under age four), there may be great difficulty in having a criminal prosecution. If the child is not at immediate risk, for example, because the allegation of abuse is against a non-custodial parent without unsupervised access, the child protection authorities may be reluctant to be involved and there may be no child protection proceeding.

Recommendation 45

That police and child protection investigators have special training in the dynamics of

abuse allegations in the context of parental custody or access disputes and that they continue to be involved as long as there is evidence of abuse sufficient to merit criminal proceedings or a risk to the child.

Social workers and police investigators need to work closely together to bring both legal and social service interventions to bear to the benefit of the child.

Unified Family Courts

In a number of provinces, Unified Family Courts have been established. These courts have a comprehensive jurisdiction over all domestic matters, and their existence facilitates the provision of such important support services as child or family assessments and mediation. The establishment of Unified Family Courts would assist in dealing with cases where there are parallel child protection and parental custody or access proceedings, and would tend to ensure that judges dealing with such cases have the experience to handle them.

Under our Constitution, the establishment of a Unified Family Court requires federal and provincial co-operation.

Recommendation 46

That the federal government co-operate with the provincial/territorial governments to establish Unified Family Courts throughout Canada.

Civil Suits Against Abusers – Limitation Periods

Survivors of incest, particularly adults, are increasingly wishing to sue their abusers. Such a suit can have enormous symbolic and psychological importance for victims, as well as providing financial awards for facilitating access to badly needed therapeutic services and for compensation. Unfortunately, in some jurisdictions, the expiration of statutory limitation periods has barred such suits. Provincial legislation should be amended¹ so that such suits

¹ See e.g. Cole, Dimock and Bradford, "False Allegations of Sexual Abuse in Custody Disputes" (1988), Royal Ottawa Hospital Study; and Bala and Anweiler, "Allegations of Sexual Abuse in a Parental Custody Dispute: Smokescreen or Fire?" (1988), 2 *Canadian Family Law Quarterly* 343-415.

¹ One Member of Provincial Parliament in Ontario is attempting to have a private member's bill enacted for this purpose; see Bill 198, 1988 (34th Legislature, 1st Session). The initiative should be coming from the government, not from individual members of the legislature only.

need not be commenced at least until a victim is a mature adult (e.g., 30 to 35 years of age). Too often, the psychological scars or repression of memories mean that such suits cannot be commenced until victims reach a mature adulthood. It should be noted that there is no limitation period for criminal prosecutions for indictable offences.

Recommendation 47

That provincial/territorial legislatures amend their limitation statutes to permit civil damages suits for adult survivors of childhood sexual assaults.

Criminal Injuries Compensation Boards

Every jurisdiction in Canada has a Criminal Injuries Compensation Board. The purpose of the compensation boards is to alleviate the losses suffered by victims of violent crimes. In theory, the board may pursue the offender to obtain repayment of any compensation paid, though in practice this rarely occurs because relatively few abusers have significant assets. In practice, victims are more likely to seek compensation from a board rather than directly from the offenders in situations where the offender has limited resources to satisfy an award.

To obtain compensation, it is not necessary for there to be a conviction in criminal court, although it must be established on a civil standard of proof that an offence has occurred. These boards have begun to make payments to children who have suffered abuse and to adult survivors, although it is apparent that there are many fewer claimants than victims. Victims may not always be aware of their right to seek compensation.

Compensation may be awarded to pay for therapeutic services for a victim, such as counselling or group therapy, as well relatively small amounts for pain and suffering. However, the awards given to victims of child sexual abuse have generally been relatively small. The boards tend to focus on the absence of physical injury or loss of wages, and often limit the amount payable for therapeutic services. There appears to be little appreciation that, for some victims of abuse,

there may be need for professional support for long periods of time and that these needs may recur later in life.

While there is a limitation period for applying for compensation after the commission of an offence, boards have a discretion to waive this requirement and generally have been flexible in this regard in dealing with child sexual abuse cases. However, there have been problems with permitting victims to make claims for injuries suffered before the establishment of the board in the jurisdiction where the offence occurred. Since no board was established prior to 1970 and some were established only in the late 1980s, this has meant that many survivors have been denied access to compensation, and hence are not receiving needed therapeutic services.

Recommendation 48

That provincial/territorial governments review the legislation and policies that govern Criminal Injuries Compensation Boards to ensure that victims of child sexual abuse receive compensation and support that recognizes the intangible nature of their injuries and their long-term needs;

That consideration be given to allowing for compensation for abuse suffered prior to the establishment of the boards; and

That the existence of the boards be publicized to victims of abuse and to those who work with them to ensure that all who are eligible can apply.

Restitution Orders – Use of the Criminal Process

In a number of American states, as part of criminal sentencing, individuals convicted of child abuse may be ordered to pay financial compensation to a victim, for example, to cover the cost of therapy. This avoids the need for parallel civil and criminal actions and gives the victim immediate compensation as a result of a criminal conviction. While it is important not to unduly complicate the criminal process, this type of remedy merits careful study. Canadian courts can already require that individuals convicted of property offences, as part of sentencing, be ordered to pay restitution.

Recommendation 49

That the federal Department of Justice study whether courts sentencing individuals convicted of child sexual abuse should have the jurisdiction to order that restitution be paid to victims, for example, to cover the cost of therapy.

Abuse by Those Responsible for the Care of Children and the Use of Screening Policies

The Role of Screening

There is a growing awareness of the problem that individuals in a position of responsibility for children may abuse their trust and sexually exploit children in their care. There have, for example, been many recent media reports about cases involving priests and religious leaders in various faiths, teachers and principals, not only in the public system, but also in exclusive private schools, and volunteers in different organizations serving youth. While the vast majority of those who work with children are conscientious and reliable, there is a small minority who have engaged in abuse, often abusing a large number of children in their care. It is perhaps not surprising that those with a predilection to abuse have sought positions of responsibility for children, where they can establish relationships with children and then exploit their trust.

It is not an easy problem to deal with, as abusers in these situations are often individuals who have established close relationships with the children in their care and who appear to have a genuine concern for them. It is apparent that the problem of exploitation of children by those in a position of responsibility has a long history that has only recently come to light.

In the past, children were probably more reluctant to report abuse than now. A combination of ignorance, fear, guilt and sometimes a sense of affection for the abuser kept children from disclosing. More disturbingly, institutions and organizations have sometimes not responded well to these types of reports from

children or parents. There was a tendency to believe an adult colleague who denied abuse rather than to believe a youth making the charge, especially if the youth had a troubled or disadvantaged background. If the police were called in, they may have suggested that charges not be laid because of difficulties of proof. Prior to passage in Parliament of Bill C-15, it was frequently difficult or impossible to prove abuse in a criminal prosecution.

There was also sometimes a misplaced sense of responsibility to the institution, which may have demanded such reports be suppressed rather than investigated. Perhaps the most insidious response was for an organization to ask an individual who was suspected of abuse to resign and then undertake not to reveal the suspicions of abuse to future employers. Thus, some abusers were able to move to a new position of responsibility for children, where they were again able to exploit more children.

With the increase in public and professional awareness of child sexual abuse, there have been more reports of abuse by individuals in positions of responsibility for children. Further, organizations that serve children are recognizing that they may have significant financial responsibility if they fail to take appropriate steps to screen and supervise staff¹.

Health and Welfare Canada is currently providing financial support to the *Put the Child First* program, which offers educational materials and training for youth-serving organizations on issues related to volunteers and child sexual abuse. While the primary emphasis is on detection of abused children and reporting of child abuse, the program also assists organizations in developing plans to screen and supervise volunteers. This type of work must be continued and extended to such organizations as schools and churches, as well as to foster homes, group homes and other childcare institutions.

1 See N. Bala, "Child Sexual Abuse and Canadian Volunteer Organizations: Legal Issues," part of the *Put the Child First* background documents (Ottawa: Canadian Council on Children and Youth, 1989). The paper contains a report on a dramatic 1987 Oregon case where the Boy Scouts were held liable for \$2.6 million in damages for sexual abuse inflicted by a scout leader on a boy. The paper discusses other cases where organizations were found liable to children for abuse committed by their staff in situations where there was a failure to use reasonable care in the screening or supervision of staff.

Recommendation 50

That Health and Welfare Canada and other federal departments continue to support programs that assist volunteer organizations to deal with child abuse, including development of policies related to the screening and supervision of volunteers, and that Health and Welfare Canada support efforts to ensure that all organizations working with children have policies related to child abuse, including screening and supervision of staff. Co-ordination at the federal level is important and should be the responsibility of the Children's Bureau.

Screening Using Criminal Records

Governments are increasingly becoming involved in efforts to screen individuals who occupy or are seeking positions of responsibility for children to check whether they have a prior history of child abuse. Screening can serve to eliminate those who do have such a prior history from abusing other children. Although screening cannot eliminate initial acts of abuse, it can have important positive effects. Experience in the United States suggests that some abusers can be screened out, once an effective screening system is in place. Further, it seems that some abusers are deterred from seeking positions of responsibility for children if they know that effective screening mechanisms are in place¹. Given the large number of children who may be the victims of a single abuser, screening can have important positive effects.

The federal government can assist in screening by clarifying or amending privacy legislation to ensure that criminal records can be released to child-serving organizations that are screening individuals for positions of responsibility with children. At present, there is some uncertainty among police forces about the legality of the release of criminal record information to non-governmental organizations, even with the consent of the individual being

screened. As a result, some non-governmental organizations cannot have access to criminal record information to screen individuals for prior convictions for child abuse.

Recommendation 51

That the federal Department of the Solicitor General and the Office of the Privacy Commissioner ensure that legislation and policies permit the disclosure of criminal offence records relating to child abuse about persons applying for or occupying paid or volunteer positions of responsibility for children. Such information should be disclosed only with the consent of the individual concerned, although the failure to give consent for a criminal record check may be grounds for denying an individual a position of responsibility for children.

While criminal records should be available for screening of those who work with children, their use is not ideal because they may be both over- and under-inclusive in terms of revealing a prior history of abuse involving children. Criminal records are "over-inclusive" when a potential employer learns of a prior criminal record not related to child abuse, which might nonetheless be used to disqualify an applicant. For example, a person convicted of an offence arising from participation in a peace demonstration might be precluded from being engaged as a teacher. In theory, it should be possible to make a criminal record check only for offences related to child abuse, though this is not done at present. Those responsible for dealing with criminal record checks should study the possibility of revealing a record of prior offences related to child abuse only, though this may not be easy in practice. For example, convictions for such offences as assault and sexual assault may relate to child victims or to adult victims. Without changes in the nature of criminal records, it may not always be possible to determine whether a prior conviction relates to a situation of abuse involving children.

Reliance on criminal records to screen for a prior history of abuse may also create the problem of "under-inclusiveness," for example, when individuals who are known to have abused children have not been formally charged. Even with more aggressive charging policies and changes in the criminal law, it is not possible to

1 See N. Bala, *Review of the Ontario Child Abuse Register* (Toronto: Ontario Ministry of Community and Social Services, 1988). See also National Center for State Courts, *Central Registries for Child Abuse and Neglect* (Williamsburg, Va.: National Center for State Courts, 1988).

obtain a conviction unless the strict rules of the criminal process are satisfied. It is appropriate not to send a person to jail when there is not "proof beyond a reasonable doubt"; the criminal provisions of the *Canadian Charter of Rights and Freedoms* must be fully respected. However, should this be the standard of proof required to preclude a person from occupying a position of responsibility for children?

Virtually all American states permit some screening for positions of responsibility for children using state child abuse register information. In some states, individuals may be denied employment in a position of responsibility for children if there merely are reasonable grounds to believe there was prior abuse. However, most states are moving toward requiring proof on the ordinary civil standard before placing names on a register whose use may deny employment to an individual.

In Canada, a number of provinces have statutorily created child abuse registers and are also moving in the direction of using them for screening, for identifying abused children and for research.

Manitoba has taken the lead in this area by affording rights of due process to those alleged to have abused children and also by using its register for screening¹. Names of abusers are placed on the Manitoba register if there is a conviction in criminal court or a finding in a civil child protection proceeding that abuse has occurred. There is also a process for having abusers' names placed on the register by local child abuse committees, with individuals having a right of appeal to a tribunal that conducts a hearing according to civil rules of evidence and standards of proof. The Manitoba register system has only recently been established and has not been formally evaluated. Its initiation has not been without difficulties, in part because agencies have not been adequately funded to support their reporting.

Nova Scotia also has a child abuse register that allows abusers to apply to Family Court for a civil hearing to have their names removed. Legislation has been enacted to permit use of the register for job screening, though it has not as yet been proclaimed in force².

Ontario at present has a register that allows abusers to be listed if there is merely "credible evidence" of abuse, but it is not to be used for job screening. The province is considering implementing a report that would require a criminal conviction, an admission or a civil finding before individuals are listed and hence would ensure due process, but would allow use of the register for screening¹.

Use of child abuse registers for screening those who want positions of responsibility for children is desirable. However, given the concerns of our society about due process, it is understandable that individuals whose employment may be affected are entitled to a fair civil hearing if they are to be identified as alleged abusers.

Providing for a civil process as part of registration, in addition to the possibility of a criminal trial, is also a good way of dealing with situations involving professionals such as teachers or child care staff who are suspected of abuse. It should not be necessary for there to be a criminal conviction to establish a history of abuse and to preclude an individual from having responsibility for the care of children. While mere suspicion of abuse cannot be a basis for ending careers, if a civil finding is made that results in a name being placed on a register, this should be justification for denying the individual a position of responsibility for children.

The use of child abuse registers for screening purposes may have to be facilitated by the federal government. In particular, for the purpose of checking an applicant against names on a register, it is necessary to clearly establish identity. Social insurance numbers would be very useful for this purpose, and in some situations fingerprints might be needed. Social insurance numbers would not be used to link with other data banks (which is prohibited by federal legislation), but solely to establish identity.

It should be noted that at present fingerprints are needed to positively establish identity and are sometimes used now to establish identity for criminal records screening.

1 *Child and Family Services Act*, R.S.M. 1987 c. 80, s.19.1-19.5.

2 *Children's Services Act*, s.43(2), as amended by S.N.S. 1988, c. 46, s.9, not yet in force.

1 N. Bala, *Review of the Ontario Child Abuse Register* (Toronto: Ontario Ministry of Community and Social Services, 1987).

Recommendation 52

That provincial/territorial governments establish screening mechanisms to ensure that those with a history of child abuse do not assume positions of responsibility for children. The screening should utilize registers that identify abusers on the basis of a civil or criminal finding, and offer alleged abusers the right to due process. The federal government must ensure that provincial/territorial registers have access to criminal records related to child abuse; and

That, if requested by provincial/territorial governments, the appropriate federal departments should provide access to social insurance numbers or fingerprints to permit screening for a history of child abuse by persons seeking or occupying a position of responsibility for children. There must be appropriate measures undertaken to protect privacy.

It seems premature to have a single national screening mechanism. At present, each jurisdiction has its own model and definitions for a child abuse register or centralized index of child protection cases. New Brunswick is the only province that has no centralized records.

It is important that Canadian jurisdictions establish common definitions to assist in developing uniform, national statistics and in tracking abusers of children who move from one jurisdiction to another. A nationwide register and screening process may ultimately be a possibility.

Recommendation 53

That provincial/territorial officials consult with one another with a view to establishing common concepts and definitions for identifying and registering child abusers and to discuss interjurisdictional problems, particularly those related to screening.

False Allegations

The issue of false allegations has recently received a considerable amount of publicity. Those who are falsely accused of child abuse pay a high emotional price and may suffer financially as well as professionally. Some teachers' unions are taking an aggressive stance with regard to

the issue of false allegations, advocating that adolescents who make false allegations should be subject to criminal prosecution for the offence of mischief. The issue of false allegations must, however, be understood in context.

While there are false allegations made, they are on the whole relatively small in number. Studies indicate that much less than 10% of all allegations of child sexual abuse are false¹. There are many more false denials by abusers than false allegations by children.

It must be appreciated that a central purpose of the justice system, including the work of investigators and the courts, is to distinguish the true allegation from the false allegation. If there were no false allegations, there would be no need for investigators and courts.

A number of recent trials in Canada involving teachers charged with sexual touching of children have resulted in acquittal. In some of these cases, it was apparent that the touching was inappropriate and not wanted by the child, but it was not possible to prove the necessary "sexual intent." Professionals and volunteers who work with children, particularly those who work with adolescents, require training and guidance as to what kind of touching is appropriate. Tenderness and touching are important aspects of human relationships. It would be tragic if teachers, coaches and other adults stopped touching children, but the touching of children must be appropriate and not forced on unwanted children.

There have also been a few highly publicized cases involving adolescents who made false allegations to seek revenge against persons in authority, such as teachers, for some perceived wrong. Young people who make false allegations sometimes do not appreciate the consequences for themselves or others, and often are not very skillful liars. Careful, sensitive investigation by skilled professionals can often detect a false allegation by an adolescent or child at a relatively early stage.

Good investigative work by properly trained staff can go a long way toward dealing with the problem of false allegations and discovering these cases well before they reach

1 See, for example, Jones and McGraw, "Reliable and Fictitious Accounts of Abuse," *Journal of Interpersonal Violence* 2 (1987): 27-45.

court¹. A number of cases of false allegations that have gone to court have involved poor investigations by untrained professionals with inadequate supervision. Understandably those who are accused in such circumstances feel aggrieved by the legal system. It should be noted that there are no documented cases in Canada in which a person was wrongly convicted and imprisoned for child sexual abuse, but there are many cases in which individuals have not been charged or have been acquitted, despite their abusive acts.

Unproven Allegations

It must be appreciated that there is a distinction between an allegation that is false, for example, the product of a malicious adolescent seeking revenge against a teacher, and one that is not proven in a court of law. Our justice system makes it difficult to prove abuse, in particular in a criminal case where the liberty of an individual is at stake. The fact that a person is not convicted in a criminal proceeding does not mean that abuse did not in fact occur.

There will inevitably be some cases, particularly those involving very young children, where there will be uncertainty about whether abuse actually occurred, even after careful investigation by skilled professionals. These will obviously not be cases for criminal prosecution, though appropriate mechanisms must be developed to deal with these cases and to ensure that children receive adequate protection in the future.

Research

There is a need for further research in Canada into the characteristics and incidence of unproven and false allegations. There is, for example, evidence that the incidence of false allegations is higher in situations where parents have separated, though even here there are many true allegations that may be difficult to prove in

court. One tragic reality is that some adolescents who have been sexually abused and who have not received adequate treatment may be emotionally disturbed and may be prone to later making unfounded allegations against innocent caregivers. There is a need for better understanding of the dynamics of situations where false allegations occur in order to assist professionals in their investigations and treatment strategies¹.

The federal government is to be commended for recent funding initiatives for research into the problem of child sexual abuse, in particular in the area of monitoring implementation of Bill C-15. It is, however, apparent that there is not a co-ordinated long-term strategy for research related to the administration of justice and child abuse and that as a result scarce research funding is not being used as effectively as it could.

Issues for which there is a need for further Canadian research include:

- the effect of the court process on child victims (i.e., the extent to which they are victims of secondary trauma and the measures that can be taken to reduce this);
- continued monitoring of Bill C-15 implementation, especially effective methods of using videotapes;
- reliability of child witnesses;
- false allegations, including characteristics and methods of investigation;
- problems of investigating and presenting cases involving multiple victims, multiple offenders and ritual abuse; and
- male versus female victims in the court system and whether there are systemic differences in terms of their acceptance as reliable witnesses in court.

A strategy for conducting research in an efficient fashion is discussed in Chapter 7 on Information Needed: Education, Training and Research.

1 See, for example, an article by John Yuille, "The Systematic Assessment of Children's Testimony," *Canadian Psychology* 29 (1988): 247-62, which discusses Statement Validity Analysis as a systematic method for trained interviewers to assess the validity of a child's statements about abuse.

1 There has already been a considerable amount of research into the detection of false allegations; see, for example, Wehrspann, Steinhauer and Klajner-Diamond, "Criteria and Methodology for Assessing the Credibility of Sexual Abuse Allegations," *Canadian Journal of Psychiatry* 32 (1987): 615-23; and Klajner-Diamond, Wehrspann and Steinhauer, "Assessing the Credibility of Young Children's Allegations of Sexual Abuse: Clinical Issues," *Canadian Journal of Psychiatry* 32 (1987): 610-14.

The Challenges of Healing and Treatment

Introduction

Victims of child sexual abuse have been neglected by the treatment community for generations. Throughout their lives, they have had to find their own ways for healing and coping with their childhood experiences. Sometimes, in turning to traditional helping agencies, their victimization has been extended through misdiagnosis, inappropriate medication or misplacement of blame on the victim.

The sexual abuse of a child is a traumatic event that, in addition to legal responses, also requires the availability of comprehensive and specialized healing and treatment services for all

those affected in order to aid in recovery and to minimize the risk of further abuse of the same and/or additional children.

Victims of child sexual abuse are not responsible for the exploitation they have suffered. While they need to be enabled to come to grips with their feelings of powerlessness and of being violated, it must be understood that the emphasis must be on healing rather than on treating. Treatment in its simplest sense implies the presence of illness. Not all victims are ill, but all are hurting and need an opportunity to heal.

In some ways it is sadly ironic that the treatment area, which is so central to the healing and support of victims of child sexual abuse, is the area that has had the least attention and that is in a critical stage of disarray and conflict.

Jeffrey Masson's book, *The Assault on Truth*¹, describes how the adult victims who came to Dr. Sigmund Freud for therapy describing their child sexual abuse were diagnosed as hysterical. It appears that the psychiatrists and psychologists who followed Freud continued for decades to deny child sexual abuse and prescribed valium and treatment methods that further victimized these women.

Although Freud originally recognized abuse in his patients, he was forced to repudiate his own observations and to mask the abuse under the theory of the Electra Complex, i.e., that the female child had fantasies about sexual encounters with her father. He could simply not bring himself to deal openly with child sexual abuse, for the same reasons that society as a whole repressed the issue.

Voices

I was really scared to tell anyone about what had happened to me. I knew that after I told, something bad would happen. When I told a worker what had happened, they talked to my mom and dad about it, and my dad said I was lying. After they found out, they wouldn't talk to me any more, and the people within my community wouldn't talk to me neither. Before telling anybody about what my dad did, it still felt like I didn't belong. Nobody in my community wanted to hear about sexual abuse and I think that no one was open to listening to it.

A Victim¹

1 Martens, *The Spirit Weeps*, p. 116.

1 J.M. Masson, *The Assault on Truth: Freud's Suppression of the Seduction Theory* (Toronto: Collins, 1984).

Prior to the 1980s, most doctors, counsellors and social workers simply did not have any training concerning the dynamics of sexual abuse. This meant that they often failed to recognize abuse as the underlying source of the presenting problem, be it marital breakdown, promiscuous adolescent behaviour, eating and sleeping disorders, depression, alcoholism or attempted suicide. Even if a history of abuse surfaced, they were unprepared to deal with it in a therapeutic sense, either because of personal discomfort or because of a lack of theoretical knowledge or skills. This lasted at least through the middle of this decade, often leading even protection workers, who were trained to detect physical abuse and neglect, to miss the presence of sexual abuse in these children.

Even in the first five years of this decade, most child protective service agencies lacked the ability to identify child sexual abuse at the time of intake in the absence of a specific complaint. Much later in the treatment process, while concentrating upon physical abuse or neglect, workers were sometimes able to identify that sexual abuse had also been occurring.

Today, even though the helping community knows much more about child sexual abuse, problems remain. Those who want to help have difficulty in accessing good and supportive training experiences to equip them with the best understanding of the problem. Once trained, the relatively few front-line workers assigned to sexual abuse cases are often overwhelmed by numbers and by a very complex and demanding caseload. They tend to become demoralized and often burnt out because of the nature of the work and lack of needed support services. There just are not enough resources available to run effective treatment programs.

Within the helping community, there are philosophical conflicts that impact upon the services offered. Many counsellors support a child-centred approach to treatment and are responding to the changes brought about by the new criminal legislation. Others continue to concentrate upon helping the offender and have difficulty in accepting that the courts must now play a role in cases of child sexual abuse. There are also many therapists who continue to practice as they did 20 or 30 years ago and are unaware of the need to incorporate the new understandings about childhood sexual victimization into their work.

There have been some improvements, but many more are urgently needed to stop the continuing maltreatment of children. The treatment area requires detailed examination by governments, professional associations and professional schools. Some basic ideas must be accepted as the basis for any treatment:

- Victims of child sexual abuse must never be blamed or held accountable. Victims need support and time for healing.
- The social context that has allowed children to be sexually abused for generations only encourages the perpetuation of the exploitation of power. This perspective must be understood by the healers, the counsellors and therapists. Helping strategies must be constructed upon a theoretical base that empowers victims to be full partners in their treatment.
- All victims of child sexual abuse, regardless of age, have the right to receive a full range of treatment services. This will require the support and expansion of existing services and the development of new services. Treatment and support should continue throughout any court process and should be available as long as victims feel the need for help.
- All treatment planning and interventions should be developed and funded with the interests of the children being paramount. The safety and healing of child victims must be continuing priorities. Where possible, the children should be allowed to remain in the familiar surroundings of their own homes.
- Adolescent and adult survivors are an important and significant group who need support and healing services from the therapeutic community.
- The sexual abuse of children is a criminal act for which the offenders must be held accountable. However, treatment services for offenders must be developed and expanded. Many offenders were abused as children and, through their own victimization, were led into a lifestyle that included paedophilia. Many offenders are still adolescents themselves. While offenders must be held accountable, society has a special obligation to treat those offenders whom it failed to protect in childhood. Early treatment of offenders

can arrest sexually abusive behaviour and prevent the victimization of other children in the future.

The Victims: A Need for Healing

We know more about female child victims, but we cannot forget that there are many boys who have been victimized. It appears to be more difficult for males to come forward and disclose that they have been sexually abused. They appear to fear being thought of as homosexual and often wonder why they have been chosen by men for sexual activities. Our social rules have taught that males should not express their feelings and should learn to keep their troubles private. We have not done a very good job of reaching out to boys to help them deal with issues of victimization. The special needs of male victims must be understood in developing treatment strategies.

Voices

The troublemaker. The four-year-old troublemaker. The liar. Everything had changed in my world. I was right. My mother. What was wrong with my mother? What had he done to her while I was away? Had he hurt her too? Why did her face look all puffy like that? Why did she cry every time she looked at me? Why didn't she want me near her? Why didn't she smile anymore?... What was wrong? Where was my mother? Had I remembered it wrong? Was I being punished because I didn't want to come home? Why was everything changed? What had I done that was so bad?

A Victim¹

1 Elly Danica, *Don't: A Woman's Word* (Charlottetown: Gynergy Books, 1988), p. 30.

In cases of intra-familial abuse, which usually involve male offenders, the mothers of child victims also require empowerment so that they can stand up for their children and remain with them through the often devastating processes of investigation and court. Issues concerning the mothers' relationships with the offenders, as well as the possibility of denial or acquiescence, need to be explored as well as their role modeling for their children.

Adequate treatment programs are not yet developed but are desperately required by a range of children with special needs. These are described more fully in Chapter 9 on Emerging Concerns: Special Groups.

Assumptions About the Needs of Victims

While victims of child sexual abuse may share some injuries in common, therapists must be open to the individual aspects of each case and must not impose assumptions upon those who have been victimized.

Some victims suffer severe and long-term psychological trauma. Other victims seem to be able to cope with their experiences, manage well in both their family and work environments, and parent their children effectively, even though they may carry the scars of the child sexual abuse. For example, Canadian paediatrician, Dr. Ken Finkel conducted a study of 417 female victims of sexual abuse and found that, while 75% reported harmful effects of the abuse, 25% reported no awareness of subsequent effects¹. This information only serves to underline that no assumptions should be made about how victims are coping with abuse.

Most children are victimized by male members of their own families or by men they know well and often consider to be an extension of their families. However, therapists must remember that some children are victimized by females or by strangers, though this is less common.

When a child is victimized by a member of the family, it is not correct to assume that the family is dysfunctional. It is essential to explore how family members relate to one another and to challenge family beliefs about power and

1 Ken Finkel, *Sexual Abuse of Children: an update*, Canadian Medical Association Journal, 136, p. 247.

authority. However, it is critical that the therapist understand that an uncle or a grandfather who molests a child may be acting out sexual and personal inadequacies that are specific to the individual and that do not reflect on other family members.

Because a child is afraid of and angry at an abuser, it is incorrect to assume that the child does not have affectionate or even loving feelings for the perpetrator. Especially if the offender is a member of the child's immediate family, the child is often torn by ambivalent feelings of love and hate. A therapist who denies the caring feelings can cause the child even more pain.

Many recent cases of child abuse by camp counsellors, youth leaders, school teachers and priests that have come to light have involved male perpetrators and male victims. It may be that male victims are molested more often by perpetrators outside the family. The bonding between the victim and offender in these cases of extra-familial abuse is usually different from that occurring within families. Therapists must be aware of the dynamics of that special kind of bonding and cannot assume that the relationship is similar to that occurring in intra-familial abuse.

Many victims and their families reported to the Special Advisor during his consultation process of the inadequacy of care provided by the so-called "helpers" in their communities. Their stories reflect incidents that were clearly secondary victimization by the system and by the ill-equipped therapists who attempted to help them. They indicate that the victims were often forced into treatment plans without adequate prior consultation and that the victims' own unfortunate circumstances were used as learning situations for inexperienced professionals who were supposed to be providing treatment. Sometimes inappropriate therapeutic information seemed more harmful than the original abuse.

Healing and treatment services fall primarily within provincial/territorial jurisdictions, with the exception of the federal correctional institutions and some services to aboriginal peoples. Federal-provincial/territorial co-operation is of immense importance if problems in the healing and treatment areas are to be adequately addressed. Thus, along with recommendations to the federal government, the Special Advisor is respectfully putting forward recommendations for inclusion in the priority

planning of other jurisdictions. It is hoped that these ideas may be useful in the important deliberation of all parties in the period ahead.

As noted in Recommendation 7, an Expert Advisory Committee related to healing and treatment should be established and should have a mandate to consult with victims, adult survivors, practicing therapists, researchers and self-help groups to explore issues of relevance to healing and treatment to develop appropriate policies.

The Needs of Adult Survivors

Every conference, television program and book published about child sexual abuse brings forth a host of further disclosures from adults who were sexually abused as children. The first disclosures came from women. More recently, disclosures are coming from men, some of whom have kept the secret for decades. Past systems have failed these people when they sought support. Many tried to tell and were not believed. Many were punished for being "seductive" or "malicious" and others lost their families by disclosing. Most remained silent out of fear or guilt or because their psychological defence mechanisms repressed those memories.

Voices

Who will you tell? Do you think anybody will believe you? Do you know what they do to kids who tell lies? I'll see you locked up. I'll make sure they throw away the key. I'll see you never get out. You're not going to put me in jail. I don't believe you. Not jail, stupid. A place for crazy women. A place where they'll keep you forever if I tell them you're crazy. I'm your father, they'll believe me. They'll never believe you.

A Father¹

1 Elly Danica, *Don't: A Woman's Word*, p. 30.

Nowadays, these survivors are telling about their experiences and we are all learning from them. We are learning to believe today's children and we are beginning to understand the social dynamics that have allowed this problem to remain a dark secret for centuries. In many ways, survivors are the best teachers about child sexual abuse. While their insights need to be heard and heeded, adult survivors must not be exploited for the benefit of today's community. They need to be offered opportunities for healing and support. Their needs for privacy must be respected. Assumptions must not be made about

Voices

A 20-year-old reaches for her own solution:

A young 20-year-old woman accompanied by a bright-eyed seven-month-old infant arrived at the office of Outreach Abuse Prevention wanting to register for a self-help programme to work on healing her anguish from years of sexual abuse by her stepbrother. She was currently living at a shelter for abused women after being physically assaulted once too often by her mate of three years. She identified that she was financially destitute and anxious about making ends meet when she returned to college in a few weeks. She informed me that she deserved to be healed and to take care of herself and that she would succeed in her goals but couldn't afford to pay the cost of the programme. Instead, she produced the following piece of paper:

I _____ owe you the cost of my treatment. I am worthy of receiving this counselling and I will repay Outreach Abuse Prevention when I am able.

Name _____

Date _____

Donna Harris,
Outreach Abuse Prevention,
Oshawa, Ontario

their emotional state and they must be accorded the right to be in charge of their own development. For instance, it is unjust to assume that a victim of sexual abuse will become an offender. It would also be inappropriate and unfair to assume that all survivors need professional treatment.

However, when adult survivors seek support and treatment, it must be available to them. Various sexual assault centres direct some of their resources toward adult survivors of child sexual abuse. There are also a few specialized programs have been developed specifically to aid adult survivors. SARA, (Sexual Assault Recovery Anonymous) Society of Surrey, British Columbia, is a non-profit charitable organization that was incorporated in 1983. SARA's recent publication, *Trauma in Our Midst*¹, funded by Health and Welfare Canada, profiles the characteristics and trauma of adult and teen survivors and charts the long-term recovery necessary for sexual abuse victims.

Recent studies are beginning to identify that there is often a link between drug abuse and sexual or physical abuse among women. A recent study by the Addiction Research Foundation of Ontario² found that women sexually abused as children were three times more likely than non-abused women to use medication to calm them and twice as likely to use drugs to help them sleep. This further adds to the urgency of meeting the treatment needs of adult survivors.

Recommendation 54

That addressing the needs of adult survivors of child sexual abuse should be an important objective for provinces and territories, and that self-help and other community-based support programs for survivors be considered eligible for cost-sharing programs with the federal government (see Recommendation 8).

1 Sexual Assault Recovery Anonymous Society, *Trauma in our Midst* (Surrey, B.C.: SARA Society, 1989).

2 Addiction Research Foundation of Ontario, News Release, August 1, 1989.

The Healers: The Need for an Expanded, Supported Work Force

The Problem of Mental Health Services

Although there are outstanding examples of individual mental health professionals who are deeply involved in providing support and treatment in the child sexual abuse field, there seems to be an absence of overall direction on the part of mental health services at large in Canada with regard to the issue of child sexual abuse. Many clinics and other services are not directed toward dealing with the web of issues surrounding child sexual abuse. Government cutbacks are also having serious adverse effects on mental health services in this area.

During the consultations with the Special Advisor, many participants pointed out that there are jurisdictional and leadership tensions between the corrections system and other treatment personnel. Some observers felt that with the current crisis of inadequate resources, jurisdictional problems will not be resolved until the resource issue is settled. With regard to the treatment of victims and offenders, there are major jurisdictional and co-ordination problems, with important service gaps.

Part of the problem is that provincial/territorial services for the treatment of victims and survivors of sexual abuse are seriously underfunded. They are not directly covered under the *Canada Health Act* and in most cases are not eligible for cost-sharing under the Canada Assistance Plan.

Another issue raised during the consultations was that mental health needs seem to have a low priority in hospital health services in comparison with expensive new equipment and advanced treatment technologies for physical illnesses.

Prevention strategies and public awareness targeted at eliminating child abuse fall within the context of *Achieving Health for All*¹, the federal government's policy framework for

strengthening the well-being of Canadians. In 1988, Health and Welfare Canada also developed a conceptual framework for tackling mental health issues in *Striking a Balance*¹. These approaches should prove helpful in clarifying mental health policies and priorities over the longer term.

The Federal/Provincial/Territorial Committee on Mental Health has been examining these issues carefully and is considering ways of strengthening mental health services. A subcommittee has been developing proposals related to children's mental health and community mental health.

From a very preliminary overview, it would seem that health care agendas may be seriously out of balance and that senior levels of government need to review priorities. In principle, the mental health field should be providing leadership in strategies to treat victims and offenders of sexual abuse and should be key players in community primary prevention teams.

Recommendation 55

That the current Federal/Provincial/Territorial Committee on Mental Health continue its active efforts to improve mental health services to children, especially those who are victims of child sexual abuse; and further

That provincial/territorial governments develop methods of providing psychiatric consultation services in community-based settings, as well as utilizing the services of psychologists, social workers, and community health nurses.

Gaps in the Delivery of Services to Victims

Victims of child sexual abuse need a full range of effective and supportive treatment services. The need begins when children are seen to be "at risk" and continues long after the disclosure, sometimes throughout life. Although we are improving the process of identification and handling of disclosures, the support process for victims demands a significant increase in

1 Health and Welfare Canada, *Achieving Health for All: A Framework for Health Promotion* (Ottawa: Supply and Services Canada, 1986).

1 Health and Welfare Canada, *Mental Health for Canadians: Striking a Balance* (Ottawa: Supply and Services Canada, 1988).

resources. Even in the centres in Canada where child sexual abuse has been identified as a priority concern for service delivery, there are very strong messages about the need for more resources. Some of the salient treatment needs are outlined below.

- Crisis case management teams are needed to offer immediate crisis help to the child and family. Delays of months are not uncommon before victims and their families can obtain treatment.
- Comprehensive diagnostic assessment services are needed to plan effective treatment. Experts in child sexual abuse must determine the best support and treatment for each case of child sexual abuse, including victims, family members and offenders. Early intensive crisis support to victims and other family members is critical. It is also important that credible assessment focused on the needs of the individuals involved takes place at an early stage, so that referral initiatives have a good chance of resulting in successful treatment. A complete assessment process must take into account input from several sources, including medicine, social work, mental health and corrections. Assessment experts should also put into place tracking systems to see that each level of recommended treatment is pursued and to evaluate the outcome of the process.
- Existing community-based agencies need to be supported and enhanced. Often the most effective services are being offered by those social workers who work in agencies such as family and children's services and sexual assault centres. These services have the potential to be most helpful. However, they are under-resourced in terms of numbers of trained staff and in their financial capability to provide needed programs.
- Smaller and remote communities need local services as well as improved linkages with services in major centres. Children's hospitals, especially those associated with universities, have effective child abuse teams and trained staff who are providing treatment, but they must be supported and encouraged to provide consultation, training and

Voices

The total mental health community really needs to be strengthened in a generic way so it is able to respond not only to the sexually abused and perpetrators, but also any other emerging problems. To date it is a much underfunded and second-class-citizen system.

Doug Archibald,
A Mental Health Professional,
Halifax, Nova Scotia

services to rural areas. Family physicians in smaller communities must be trained and integrated into treatment networks.

- The small numbers of social workers, psychiatrists and psychologists providing specialized treatment to child sexual abuse victims or offenders need to be expanded. There must be specialized, current training for therapists dealing with victims of sexual abuse. Therapy that is based upon a traditional medical model and that reflects the influence of the traditional Freudian approach is not appropriate for child sexual abuse victims.
- Self-help and community-based helping agencies that rely on volunteers and para-professionals need to be supported and recognized as valuable links in the helping network. The gaps in treatment and support services are partially being filled by individuals, often former victims themselves, who have received some training and who are helping countless victims and their families. Many trained volunteers are providing invaluable service through sexual assault centres and other community-based operations. Some provinces have expanded their support to community-based healing and treatment programs, which are then able to increase the number of professionals and volunteers available to provide these services. Notable in this respect are the provinces of Ontario and Manitoba.
- Distinct communities need support to develop treatment and healing alternatives appropriate to their cultures.

Native and immigrant women's groups have potential, both as service providers and as "helpers" who can understand the needs of children from their communities and who can facilitate disclosures.

However, these groups need to be trained and supported.

- Disabled children and adult survivors need therapists who can communicate effectively with them and who are sensitive to their special needs. It is important that special services such as wheelchair access, sign language and other special needs are made available in the treatment of persons with disabilities, and that these requirements are identified in the review of services available.

It is recognized that service delivery is clearly within provincial/territorial jurisdiction. The following recommendations are put forward for inclusion in the planning and priority considerations of the departments involved.

Recommendation 56

That provincial/territorial governments address the gaps in the delivery of treatment services, such as the need for crisis case management teams, comprehensive diagnostic assessment services, and the adequate support of community-based agencies.

Recommendation 57

That the federal government, in partnership with provincial/territorial governments, study the particular problems in providing treatment services to rural and remote communities and develop innovative agreements to better utilize treatment specialists, self-help groups, indigenous helpers and community volunteers. These initiatives should be cost-sharable (see Recommendation 8).

The Special Concerns of the Non-Offending Parents, Grandparents and Foster Parents

Too often, professionals are reluctant to share information about the needs and treatment plans for young victims. Policy makers and

professionals must recognize that non-offending family members and other caregivers such as grandparents or foster parents are part of the "healing team."

The unwillingness of some professionals to share information may reflect concerns about confidentiality. If necessary, professional standards or provincial regulations should be amended to permit appropriate information to be shared with caregivers, with the child's knowledge and permission.

This distancing of caring people who are close to victims is unfair and denies children opportunities for sharing their fears and concerns. Whenever possible, non-offending parents, grandparents and foster parents should be encouraged to understand more about child sexual abuse by participating in case meetings, by attending and supporting group meetings, by being provided with supportive literature, and by being included in treatment sessions with the children.

Recommendation 58

That provincial/territorial policies and therapists ensure that treatment plans for child victims are shared with non-offending parents and other caregivers, and that these individuals are appropriately involved in the healing process.

Multidisciplinary Treatment

Healing and treatment services are enhanced when a variety of disciplines are able to work together to provide a multidisciplinary approach. Therapists need to interact with those involved outside the treatment process, such as lawyers and investigators. Where therapists are working individually, their efforts can benefit greatly by the existence of treatment networks that can stimulate interdisciplinary sharing. Individual therapists should be encouraged to be active in treatment networks (this is described in more detail in Chapter 7 on Information Needed: Education, Training and Research).

Treatment Networks

Networks that link institutions, services and individual practitioners are essential for establishing an effective continuum of treatment services in local communities. Treatment planning for the entire family, and sometimes also for the offender, should be co-ordinated at a local level using community-specific protocols and the resources in the regional or community-based treatment networks. These networks also contribute to mutual learning and support needed by therapists who are dealing with these challenging problems. Treatment networks exist in Toronto, Calgary, Saskatoon, Winnipeg, Vancouver and a few other centres.

With the creation or extension of local co-ordinating committees, treatment networks can be enhanced. Where they do not exist, they can develop as part of local co-ordinating committee activity. This is addressed in Recommendation 10 in Chapter 3 on Systems: In Search of Harmony and Effectiveness.

Stopping the Abuse: Offenders in Treatment

Many offenders have great difficulty in accepting responsibility for the wrongful acts they have committed and often deflect blame. They often deny they have committed the acts with which they are charged, even in the face of irrefutable evidence and after conviction in court. Their social and emotional development, as well as their sense of values and morality, may be very limited. Some adult offenders are viewed as virtually untreatable. However, it is apparent that many offenders are amenable to treatment; if offenders receive appropriate treatment, they may not commit further offences. Unfortunately, all too often appropriate treatment is not available.

Most correctional facilities have inadequate resources for providing treatment services for sex offenders. In some provinces, there may be only one offenders' treatment program serving the entire province, making it impossible for many offenders to receive services. Many sex offenders in fact do not receive any treatment.

There are several obstacles that are retarding the expansion of offender treatment. Many offenders are severely damaged people and require extensive and long-term therapy. Furthermore, dealing with sex offenders is a particularly difficult and challenging task. While there is an appreciation of the value of treatment for sex offenders, it is recognized that there are also limitations to what can be accomplished in treatment.

Continuity of treatment from the correctional institution to the community is an important need, and yet is often difficult to arrange. Programs tend to operate in isolation, and there is an obvious need for better co-ordination among the organizations involved in offender treatment. There are still too few experts to meet the need for treatment programs, and there are inadequate training opportunities to allow individuals to develop the expertise needed for this field. A problem associated with the treatment of offenders in Canada is based on the division of responsibility between the federal and provincial levels of government. The provincial/territorial governments are responsible for offenders serving sentences of less than two years, while the federal corrections system is responsible for inmates sentenced to terms of two years or more. The different systems often have very different treatment facilities and philosophies; whether an offender receives any treatment at all may be determined by the system he happens to be placed in.

A tragic event that occurred in Toronto in January 1988 highlighted problems associated with the treatment of offenders when a woman was sexually assaulted and killed. The offender was in breach of the conditions of a 48-hour temporary absence from a community-based correctional facility. A board of investigation, chaired by Jane Pepino, was established to inquire into the circumstances around the death. The resulting report included 32 recommendations. Its Recommendation 30 stated:

The Board recommends that the Government of Canada initiate a comprehensive evaluation of the effectiveness of all present sexual offender treatment programs. If such evaluation indicates there are no effective treatment programs at present, further consideration should be given to ending

*ineffective programs and concentrating funds and human resources in those areas where some promise is shown!*¹

This recommendation was accepted by the Solicitor General of Canada, and a working group is now completing an intensive review. The federal Department of the Solicitor General working group includes experts in every jurisdiction and has identified future directions and the need for a national strategy in the treatment of sex offenders. Their report, when it is released, will be of considerable value in charting a course for the future.

Many offenders were victims during childhood and were not able to heal or to deal with their own powerlessness. The scars of victimization for juvenile sex offenders are usually recent ones. The need for programs for adolescent offenders, who were themselves victims, is particularly critical. Counselling, values training, social development and group therapy are all crucial. Without effective treatment, some adolescent offenders will continue to victimize children throughout their lifetimes.

Illustration

The Special Needs of Young Offenders

The urgency of the treatment issue was forcefully brought home to me when I watched a videotaped interview with three boys aged 14, 15 and 16. The taping had been arranged for my benefit, with the permission of the three boys. The three had been in treatment for about nine months after each had admitted to charges of sexually molesting a younger child. All were receiving treatment in the custody facility where they were serving their young offenders sentence. Their therapist conducted the interview.

Each of these young offenders said that he had first been abused at about four years of age and had been sexually molested by both men and women repeatedly until about nine years of age. The offenders were family members or adult friends of the family. At about age nine, the boys

began molesting other children; some they knew and some were strangers. Each guessed he had molested about 50 children, although the three had been charged with only one offence each.

Two of the boys said they could not trust themselves anywhere in the vicinity of young children. When they do go out, they always have a staff member with them to help them control their behaviour. The boys were subdued and contrite, and they indicated that their treatment was the only thing that gave them some hope for the future. They said they wanted to change, but they did not trust themselves yet. What a devastating story! The implications of failing to adequately treat adolescents with similar experiences are terrifying.

A view supporting the notion that treatment must begin with child victims to prevent their becoming future offenders was expressed by Christina Dawson, a sex offender therapist at Family and Children's Services in St. Thomas, Ontario:

The problem needs to be addressed in childhood. Many of the men I work with were completely candid when I asked them the extent of their abuse. The ones who were sexually abused as children had had two to 30 victims each, ranging over periods of five to 30 years. In two cases, these men had brothers who were also sex offenders. The other abusers who had only physically abused or report no family violence in their childhood had only one or two victims over a three- to six-month period. They all strongly suggested more treatment for victims and especially male children who may grow up to be victimizers, and more treatment for adult offenders and more public education and awareness, including a hot-line so that can call in and learn of helping facilities¹.

Recommendation 59

That the federal government fund research and evaluation studies into the effectiveness of different treatment intervention strategies for victims, families and offenders.

1 J. Pepino, *Board of Investigation Report* (Toronto: Ministry of Metro Toronto Police Commission, 1988), p. 25.

1 C. Dawson, St. Thomas, Ontario, personal communication.

The Need to Evaluate Treatment Services

Ray Thomlinson in his *Review of Child Sexual Abuse Treatment Outcome Research*, reports:

Overall, it was concluded that research in the area of child sexual abuse treatment outcomes is clearly in its infancy. Even those studies which have been completed are generally weak in methodology and measurement. Recommendations for further research in this area include a greater specificity of program treatment objectives, the nature of treatment techniques, who these techniques are to be used with and by whom. Most programs purport to be multi-method, and with a great variety of different therapy techniques employing a variety of professionals, lay therapists, and self-help groups. Little if anything has been done to factor out who does what to whom, and in relation to what criteria¹.

This conclusion vividly highlights the gap between outcome research and the growing number of treatment initiatives. Few treatment strategies have been subject to rigorous evaluation. The Special Advisor senses that therapists are already putting into practice treatment methods that have not yet been formally evaluated in terms of their impact. This is inevitable in a rapidly evolving field, but evaluation over time is essential.

Some advanced treatment programs involving individual counselling, self-help groups, family therapy or group therapy are emerging in several centres. Repentigny, Montreal, Winnipeg, Toronto, Hinton (Alberta), Calgary, Saskatoon, Ottawa, Edmonton, Vancouver, Kingston and London are centres where well-developed treatment programs have been established.

Various agencies are providing specialized clinical services for children and their families. Some offer treatment programs only for victims and their mothers. Some include other

non-offending family members. Others attempt to reintegrate the family by rebuilding the relationships between the victims and intra-familial offenders.

Self-help and mutual aid groups have been providing support to adult survivors and families of the victims of child sexual abuse. Often operating with totally voluntary efforts, including support from assisting sponsoring professionals, these forms of help deserve to be recognized as legitimate forms of treatment. They require endorsement and sponsorship by trained counsellors and adequate funding support from governments. Evaluation of their effectiveness is required to support the position of these groups in the therapeutic community.

Child-centred versus Family-centred Approaches

There continues to be a need to fully debate and discuss different theoretical approaches to treatment. For example, although most therapists appear to favour a child-centred approach, particularly when the child has been abused by a family member, treatment that reflects family-centred strategies is also supported by many. The Badgley report conceptualizes a "child-centred" approach based upon three premises:

- the primary focus of service is the victim, even though considerable attention may be paid to the offender;
- any type of sexual contact between minors and adults is considered to be morally wrong and damaging to the child; and
- the adult offender alone is responsible for any abuse that occurs.

The philosophy of the "family-centred approach," as conceptualized in the Badgley report, has these three premises:

- the primary focus of attention is the family and it is within the context of meeting its needs that those of the sexually abused child are best served;
- children have the inalienable right not to be assaulted, and they are entitled to live in their natural homes; and

¹ Ray Thomlinson, *A Review of Child Sexual Abuse Treatment Outcome Research* (Ottawa: Health and Welfare Canada, 1988), p. 11.

- intervention in the affairs of a family is more effectively and ethically achieved when this is done on a voluntary basis.

Voices

All of us in this group freely acknowledge what we did and realize the horror of it. We are learning to look for any warning signs to make us aware of a potential situation in the making; we all loved our victims. That is what makes it so bad for all of us. The betrayal of trust and love that can probably never be fully re-established is a punishment that we will live with forever.

Letter to the Special Advisor
from an Offenders' Group in
Therapy

As more and more is learned about the results of child sexual abuse in relation with its impact on individuals, predetermined treatment theories are likely to prove inadequate. Individual case assessments involving multi-disciplinary expertise will likely be the most fruitful approach.

Professionals who work in the child sexual abuse area suggest that offender treatment must be sensitive to victims. For example, the concept of restitution, the writing of a letter of apology (if such is desired by the victim), or the payment for treatment for the victim by the offender are ways in which the offender can demonstrate an awareness of the effects of the victimization.

Recommendation 60

That the Expert Advisory Committee on Healing and Treatment¹, in conjunction with experts in the field and appropriate government jurisdictions, develop a long-range plan for effective sex offender treatment strategies. This may involve supporting work that has already been completed, such as the Solicitor General

working group, and/or initiating further consultation and research activity. The implementation of proposed changes will require consultation and co-operation of all the government jurisdictions involved.

International Social Services

There is a growing concern in the international community about coping with human problems for families where members are separated by being in different countries, particularly when a vulnerable member of the family may need special protection, support services or treatment. International Social Services (ISS) Canada, an international non-profit organization supported by Health and Welfare Canada, is part of an international network reaching around the world. The overall caseload includes an increasing number of cases involving child sexual abuse. Because sex offenders often move from jurisdiction to jurisdiction, ISS officials point to the need for international protocols regarding the sharing of information.

The Special Advisor has looked primarily at information needs within Canada, but the international arena should not be overlooked, particularly when child sexual abuse is an unfortunate reality throughout the world.

¹ See Recommendation 7.

Information Needed: Education, Training and Research

Introduction

The dramatic increase in the rate of disclosure and reporting of cases of child sexual abuse has found most professionals ill-prepared to deal with the needs of the many victims, their families and offenders. In the late 1970s and early 1980s, professionals in Canada interested in the field of child sexual abuse were trained primarily in the United States. As the 1980s progressed, training centres in Canada began to focus on this issue, and curricula on child sexual abuse are now in place in several Canadian professional schools. Despite progress, the resources for training are still random and insufficient in most areas of the country.

We are all still learning about the dynamics of child sexual abuse and how we should respond. Even with the advances in training made in the past several years, there will continue to be an ongoing need for training as our understanding evolves. For example, we have only just begun to talk with young male victims of abuse and to learn about their experiences. As the problem becomes more clearly defined, we will need to refine our approaches to provide the best support and service possible.

Front-line workers are reporting that cases not only are increasing in numbers, but also seem more complex. As we learn more about the needs of victims and about the behaviours of offenders, we realize more about the intricacies of the dynamics of sexual abuse. Also because more cases are being prosecuted in the court, the preparation of young victims to testify is demanding more time and more specialized training for those who work with them.

When one takes into account that the average tenure of a front-line child protection worker is about three years, the continuing need

to train new workers becomes even more pronounced. It is essential to take steps to reduce burnout variables and to provide better support to reduce job turnover. Front-line professionals continually express their need for increased training; these people are under pressure to learn how to do their job better.

All professionals involved in child sexual abuse cases, including judges, Crown Attorneys, defence lawyers, police, social workers, therapists, educators and health care providers, need to have a minimum standard of knowledge about child sexual abuse, its nature, symptoms, and possible manifestation and effects. Professional and in-service training are essential to shape appropriate professional response to the needs of the victims in the field.

There must also be essential supportive professional consultation services for front-line workers. Child protection agencies are often short of resources, and consultation resources may therefore be especially limited. In some communities, an interdisciplinary hospital team, often augmented by community professionals, is available to provide consultation. Workers in rural or remote areas have limited opportunity for consultation with colleagues and more experienced professionals. In a small number of these communities, a local co-ordinating committee serves as a supportive reference group for professionals.

While education and training are critical, they cannot be seen as the total solution to our inadequate response to child sexual abuse. In one mid-sized city, the caseload has increased from 23 cases to 300 cases in a six-year period. Such an increase is typical of what is happening across Canada. This increase of more than 1100% demands major training initiatives, and also an increase in numbers of workers.

The volume of the work and the increasing complexity in types of cases sap at the energy and productivity of even the best-trained child protection teams. Inadequate backup and lack of professional support contribute to the isolation and frustration of an already overextended front-line staff. Given the paradox of inadequate training and such high standards required to provide supportive services to children, it is understandable that child protection workers burn out quickly.

The extent of child sexual abuse and the range of response required to deal with its complexities demands the creation of multidisciplinary teams of professionals, with specialized training in child development and child sexual abuse and an understanding of the legal system.

Finally, although we could learn much from the survivors of sexual abuse that could help fill this training gap, we must take care not to exploit those who have been victimized to satisfy the training needs of various professionals.

Again, the issue of providing support for training professionals, as it relates to service delivery, is largely in provincial/territorial jurisdiction. Because the training issue is so critical, recommendations in this chapter pertaining to jurisdictions beyond the federal realm, including the professionals and professional schools, are put forward respectfully so that they may be included in the policy and priority planning of the respective jurisdictions. It is hoped that these ideas may be useful in the important deliberations that lie ahead.

Governments' Leadership Role

In 1975, the Ontario government established the Child Abuse Prevention Program (CAPP), which led to community development initiatives and the establishment of local inter-agency co-ordinating committees on child abuse in some communities. The provincial government also provided training on dealing with child sexual abuse for child protection staff. By 1983, the government, interested professionals and the private sector joined forces in opening the Ontario Centre for the Prevention of Child Abuse, which quickly earned a reputation as a centre for excellence in Canada for dealing with the problem. In 1987, the centre became a private,

non-profit charitable organization called the Institute for the Prevention of Child Abuse. It is a major trainer of child protection staff in Ontario, and does similar work on a contract basis for some other jurisdictions. Its programs, of a multidisciplinary nature, have made a significant contribution to training of professionals, consultation services, research and public education. In addition, the institute has taken a number of initiatives with respect to Bill C-15 and has provided learning opportunities for those in the justice system.

The creation of the Institute for the Prevention of Child Abuse in Ontario has provided an important vehicle through which the province of Ontario has been able to expand multidisciplinary training activity in terms of both quantity and quality.

The province of Manitoba has played a leadership role for some years in the area of child abuse. Canada's first major conference on child sexual abuse was held in Winnipeg in 1982, with provincial government sponsorship of local initiatives, and since then the province has placed an emphasis on better training. In addition, the province has acted upon many of the recommendations of the Reid-Sigurdson report¹ and has followed through with a series of training initiatives for child protection workers, supervisors and other community-based workers. Reviews have been conducted of the curricula of relevant educational institutions. An integrated multidisciplinary training program is being investigated as a basis for future training in the province.

The creation of a provincial Advisory Committee on Child Abuse in Manitoba and the appointment of a provincial Child Abuse Co-ordinator have strengthened intersectoral and interjurisdictional planning. Manitoba is currently developing a three-year Treatment Plan for Child Abuse.

In British Columbia, the Justice Institute, with both federal and provincial support, has brought nationally and internationally recognized experts to the West Coast for conferences and has provided training opportunities to the rural and remote regions of the

1 Eric Sigurdson and Grand Reid, "External Review into Matters Relating to the System of Dealing with Child Abuse in Winnipeg: Final Report" (Winnipeg: Manitoba Ministry of Community Services, 1987).

province. The concerns of native families have been a priority for the Justice Institute. Much work has been done with aboriginal communities around the handling of conflict in relationships. The Attorney General's Office in British Columbia has provided leadership to professionals in the justice system across the country.

A training course sponsored by the government of Quebec for professionals dealing with child sexual abuse was held in November 1987 in Montebello. Three provincial ministries of Health and Social Services, Justice, and the Solicitor General collaborated on a training program related to Bill C-15. Comprehensive kits were developed by Quebec government officials to assist with the training and are currently in use throughout the province.

Alberta's Office for the Prevention of Family Violence has created linkages throughout the province for municipal child abuse committees and has earned an excellent reputation as a source of training information for a variety of professionals. The appointment of a child abuse co-ordinator in the Calgary region of Alberta's Department of Social Services has strengthened co-operation, co-ordination and training across several jurisdictions.

Federal support has been instrumental in developing a broad range of training initiatives. A Saskatchewan-based training conference sponsored by the Saskatchewan Council For Children and Youth, titled *Beyond Badgley*, was held for western professionals. A recent province-wide training effort for child protection workers in Nova Scotia was developed by the Professional Association of Social Workers and the Institute for the Prevention of Child Abuse, supported by funding from Health and Welfare Canada. Child protection workers in New Brunswick have also been exposed to a comprehensive training program, sponsored with federal money and initiated by the provincial Child Welfare Association. The federal Department of Justice has had several public information resources prepared regarding Bill C-15 and they are now available.

One result of these initiatives is that there is a readily discernible and growing network of Canadians who care about the children who have been sexually abused. Some of these people attended the National Workshop on Child Sexual Abuse: *Reaching For Solutions*, which was

organized as part of the consultation process of the Special Advisor and held in Ottawa in May 1989.

It can be seen that these initiatives are diverse and that much could be learned if the provincial/territorial governments could better share their experiences in the training area. These training initiatives are important. However, it must be emphasized that training programs cannot be limited to one- or two-day sessions and that they must be regularly repeated to permit training of new staff and a deepening and updating of expertise among existing staff.

Multidisciplinary Training

Inherent in appropriate education and training for child sexual abuse is a multidisciplinary approach. Professionals from a variety of settings must work together and must overcome traditional jurisdictional differences and professional rivalries if they are to be effective and helpful to children who are suffering the effects of abuse and neglect.

Preparation limited to single professions tends to increase the isolation within a particular discipline. New professionals need to understand that it is impossible to work effectively alone. Reality calls for interdisciplinary co-operation and action. There should be no undertakings in child sexual abuse in any area, investigation, prosecution, treatment or prevention, without prior consultation with all the relevant disciplines.

There is also a need to expand the scope of preparation in professional schools, with special emphasis on multidisciplinary training. Over the past few years, there has been an increase in contact and sharing of views among lawyers, police, social workers and treatment specialists regarding child protection and criminal justice issues. Further effort is needed in order that all those involved can develop a better appreciation of the scope and limitations of the systems involved. For example, all professionals who are likely to appear as witnesses in court must receive training related to the court system

and their involvement in it. A basic understanding of the role of the courts in dealing with child abuse must be viewed as part of professional education for all relevant disciplines¹.

Both the Sigurdson-Reid report² in Manitoba and the report of the Task Force on Family and Children's Services³ in Nova Scotia contain several recommendations related to the need for more comprehensive training programs of an interdisciplinary nature.

The Need to Train People for Work in Rural and Remote Areas

Given the paucity of resources in rural and remote areas, the need for multidisciplinary training for workers in these areas is particularly crucial. When staffs are small, it is important that every member of the team understands what needs to be done in terms of collecting information during the investigation, supporting the child and family, preparing for court and providing treatment. It is especially important for those who must work together on small teams to learn how to co-operate, to share responsibilities and to be supportive of one another.

The Role of Professional Associations

Associations representing the professionals who are active in dealing with child sexual abuse must take a stronger position in providing specific training in this area.

Professional associations should also feature studies into child sexual abuse as a regular item in their bulletins and professional journals. They should work with each other in sponsoring and promoting training seminars that

would encourage interdisciplinary co-operation. They should also encourage each professional governing body to review and update policies and curricula with reference to child sexual abuse.

The Role of Universities and Colleges

Universities and colleges must be encouraged to fulfil their roles in training and consultation. They should regularly revise their curricula to deal adequately with current knowledge concerning child abuse. In many cases, professional schools could offer staff appointments, assist with continuing education programs and provide resources that can assist with research and evaluation of new programs. Exchanges and linkages between the field and the academic setting can provide benefits in both directions; they can offer students opportunities for training and enhance the potential for community-based services to evaluate and improve their programs.

Training Needs for All Sectors

Regional Resource Centres (see Recommendation 6) are being recommended to undertake important work in the area of child sexual abuse. These centres, which should become leaders for training initiatives, would employ on a regular or contractual basis small teams of experts in all of the major professions involved in dealing with child sexual abuse. Such teams would be instrumental in bringing training to members of professional groups.

In any professional group, there are many who have been victimized sexually in childhood or as adults. Professionals who have had this life experience should seek the support or counseling they need to understand some of their own experiences and attitudes, especially if they intend to work with current child victims. With appropriate self-awareness, those who have been abused as children may have special contributions to make as adults.

1 R. Vogl and N. Bala, *Testifying on Behalf of Children* (Toronto: Institute for the Prevention of Child Abuse, 1989).

2 Sigurdson and Reid, "External Review...into Child Abuse."

3 *Task Force on Family and Children's Services, Report* (Halifax: Nova Scotia Department of Social Services, February 1987).

Keeping in mind that all sectors must be exposed to multidisciplinary training, there are also specific needs for each sector, as outlined in the following sections of this chapter.

The Justice System

Police Training

All police officers require a familiarity with the special skills and sensitivities needed for dealing with children during a child sexual abuse investigation. Experienced officers, particularly supervisory personnel, who have not had the opportunity for such orientation need to be aware of the realities of this type of case. Until now, spending priorities for police training have been on other areas of policing such as drunk driving and drugs. Child abuse and family violence have yet to be given such a priority.

Police colleges have incorporated a modest program on dealing with child sexual abuse for new cadets. The Canadian Police College provides a week of training in domestic violence for selected senior officers; however, this is not enough to meet the needs of officers dealing with child sexual abuse. Given the numbers of calls that police must make in response to cases of child abuse, provision must be made for training every senior official who will be in a position to direct police policy and for every police officer who may need to respond to a report of sexual abuse.

There are differences of opinion within the police community about the concept of "specialization" and "specialized training." Although there may be difficulties to overcome before a comprehensive strategy can be launched, the Special Advisor feels it is urgent for the issue to be addressed, in hopes that current difficulties can be overcome (the need for specialization of police officers is also dealt with in Chapter 5 on Child Sexual Abuse and the Justice System).

Recommendation 61

That the Canadian Association of Chiefs of Police and the RCMP review police policy and practice related to the investigation of child sexual abuse and the necessary levels of expertise required by police officers in this area;

That police departments support policies to ensure there are front-line specialists available for child abuse cases; and

That, through the Canadian Police College, senior police officials be required to take an orientation program dealing with the area of child abuse.

Training of Lawyers

Some Canadian law schools offer optional courses in children's law (e.g., Queen's, Calgary, Dalhousie, Saskatchewan, Osgoode Hall). In a number of provinces, continuing legal education programs have dealt with Bill C-15 and child sexual abuse, though participation has been voluntary.

Recommendation 62

That Canadian law schools ensure that all students acquire a basic understanding of the issues of domestic violence and child sexual abuse, perhaps in the context of their family law or criminal law courses. Interested students should have the opportunity to take advanced-level courses dealing with child sexual abuse and to acquire clinical experience in the area. Continuing legal education programs should regularly be offered on the subject of civil and criminal aspects of child sexual abuse.

Court-Based Counsellors

Bill C-15 has brought about a major change for those who have been working in the court system as counsellors. In the view of victim witness counsellors, the new law has opened the door for a greater degree of child-centredness during proceedings and a greater recognition of the need to provide support to the child during criminal proceedings. The preparation of children for the court experience has become a specialty area and demands caring and patience on the part of counsellors. Training for these court-based counsellors and Crown Attorneys must be provided.

Training of Crown Attorneys

Crown Attorneys who understand the needs of children in court must be assigned to cases of child sexual abuse. They must be trained to be aware of the attention spans and anxieties of those who are very young. Their working

relationships with court-based counsellors must be supportive for all who must proceed with such cases.

Recommendation 63

That provincial ministries of the Attorneys General offer week-long training programs for Crown Attorneys, child protection investigators and court-based counsellors on adequate preparation for sensitivity of child victims and on such issues as the use of videotapes.

Training for investigators needs to include:

- knowledge about child development and child sexual abuse;
- interviewing skills with children about sexual abuse; and
- comfort with interviewing and discussion about sexual matters with children.

Training of Judges

For a thorough discussion of the training needs of judges, refer to Chapter 5 on Child Sexual Abuse and the Justice System, especially Recommendation 35.

Training of Probation and Parole Officers

Sexual offenders are at risk of reoffending throughout their entire lifetimes. It is recommended elsewhere in this report (Recommendation 40) that some sexual offenders remain on probation or parole for life. Probation and parole officers must understand the dynamics of child sexual abuse and the symptoms that may indicate an offender may be likely to commit another offence.

Recommendation 64

That the responsible departments of government ensure that all probation and parole officers receive specialized training in child sexual abuse.

Procedures must be in place to ensure that these officers are in regular contact with offenders and that all activities are closely monitored (see Chapter 5 Child Sexual Abuse and the Justice System).

The Social Services and Health Systems

Training of Child Protection Workers

Good work has already been done by most provincial governments in enhancing the training of child protection workers. However, because the turnover rates are so high for people who work in these very stressful situations, the maintenance of such a level of training must be a priority.

Most social work schools now include family violence and child welfare courses in their curricula, although these courses typically still are electives. There is no Canadian social work program that offers concentration in child welfare. The effect of this weakness in training means that graduates from professional social work schools are not adequately prepared to move directly into child protection work, let alone into the child abuse field. Community colleges offering social services programs similarly fail to offer specialist programs in this field. They should be encouraged to offer specialty concentration programs in child abuse.

The Medical Profession: Psychiatrists, Paediatricians and Family Doctors

Training of Doctors

There is a shortage of child and adolescent psychiatrists in North America. Many of the psychiatrists who work in this field have inadequate training for dealing with victims of child sexual abuse and adolescent offenders. Further, it seems that psychiatrists active in this field often have poor working relationships with other professionals in this field, such as paediatricians, family doctors and psychiatrists.

There is a desperate need for family doctors to be familiar with child sexual abuse, so they can effectively diagnose and treat victims. While medical schools are developing programs concerning child abuse, all too often the emphasis is on training paediatricians in this

field. Family practitioners tend to receive relatively little training on child abuse, even though they are often in the best position to make an initial report. Further, in some localities, family physicians are involved in treating victims and survivors. All family doctors should be informed of their legal obligations to report suspected child abuse and should also receive training about the diagnosis and treatment of abuse. Involving doctors in child abuse cases is addressed in Recommendation 11 in Chapter 3 on Systems: In Search of Harmony and Effectiveness.

Hospital-based Professionals

Health and Welfare Canada has a mandate to provide guidance to the provinces and territories regarding protocol development for health care professionals and hospitals. Considerable work has recently been undertaken in this area by a special federal-provincial committee¹ so that those who have been victimized by family violence can be identified and referred to the appropriate place. As these broad-based initiatives are undertaken, there will be an increased call for training of hospital-related staff, including physicians, nurses and social workers. While much work has already been done in the area of physical abuse, there is a need for specialized training for cases of child sexual abuse.

Community-based Psychologists, Mental Health Workers and Social Workers

Mental health professionals who act as counsellors of adults should be alerted to the symptoms of survivors of child sexual abuse so that they can identify and treat those who are adult survivors. Whether the presenting problem is depression, marital troubles or a range of other symptoms, all who provide counselling in the community must know how to make the

connections between the childhood experience and the effects that manifest themselves later in adulthood.

Community Health Workers

Just as Health and Welfare Canada has played a lead role in developing guidelines for health institutions, departmental representatives have co-ordinated a recent committee to develop guidelines for community health workers for investigation of cases of sexual abuse. Community-based personnel, particularly public health nurses, are well placed to do preventive work and to aid in the identification of children who are suspected victims of abuse. Comprehensive training needs to be developed for these professionals and efforts must be made to establish linkages between community health workers and local child protection agencies.

Employee Assistance Counsellors

Workplaces are developing an increased response to personal problems of employees. Originally more focused on problems that have direct impact upon productivity, such as alcohol and drug abuse, employee assistance counsellors are now hearing from clients who are struggling with family-related issues. Women who are battered, who are concerned about others they love who are victims, or who may be trying to deal with the effects of their own childhood sexual victimization are increasingly turning to workplace counsellors for help.

An excellent example of the possible initiatives for training for employee assistance counsellors about child abuse and family violence has taken place within the federal Department of Public Works¹. A model has been developed that could be replicated throughout the federal government and that could provide added impetus to the work being undertaken in other non-government workplace counselling settings. Similar training should be undertaken in the private sector with workplace counsellors.

1 Subcommittee on Institutional Program Guidelines, *Guidelines for Establishing Standards for Health Care Related to Abuse, Assault, Neglect and Family Violence*, (Ottawa: Health and Welfare Canada, Health Promotion Branch, 1989).

1 P. Prudhomme, *Domestic Violence Awareness Program*, (Ottawa: Department of Public Works, October 1987).

Recommendation 65

That Health and Welfare Canada, in conjunction with provincial/territorial governments, ensure that appropriate training concerning the identification and treatment of victims of child sexual abuse is available and encouraged for those professionals who are working on the front line of family service, such as family counsellors, public health nurses and workplace counsellors.

Those Who Work with Children on a Daily Basis

Child abuse professionals sometimes forget that there are large networks of other professionals, para-professionals and volunteers who can be supportive to the child and helpful to the process of healing. The potential for developing this network for prevention and public awareness is described in some detail in Chapter 4 on Public Awareness and Primary Prevention. There are specific training needs that must be addressed for the members of these groups, including services for children with various types of disabilities.

These professionals include school teachers, daycare workers, guidance counsellors, youth leaders, camp counsellors, church leaders and youth workers. These people who care for children and who are willing to be trained for a helpful role are too often overlooked. They are part of the natural helping networks in which concerned citizens have already demonstrated a commitment to children.

It is very unusual for abused children to have immediate access to police or child protection services. Abused children often initially disclose to a person like a teacher or a youth worker. The people who need the training about how to receive a disclosure are the caregivers who work with children on a daily basis.

As these people are most likely to receive the disclosure, they should receive basic training to listen carefully, to reassure the child, to record the child's statement accurately and to report immediately to the appropriate authorities. They must know that their duty is to make the report and to be supportive on an ongoing basis. But they must also understand that the job of

carrying out the investigation and actually doing treatment with the child is a job that must be left to those who are specially trained as experts in child abuse.

Some school systems have made efforts to develop policies and to train their teaching staff about child abuse. It has long been acknowledged that teachers have a responsibility to report suspected child abuse or neglect to the appropriate authorities. It is apparent that training to date has not been extensive enough. Seminars and workshops must be held to provide accurate information to school personnel. Such seminars should also be opportunities for police and child protection officials to establish working relationships with these professionals to deal with cases of suspected child abuse or neglect. With this kind of multidisciplinary co-operation, the roles of each professional should be clarified and liaison should be enhanced in the best interests of the children. Better information and training may allay some of the misconceptions held by some professionals about false allegations.

Some churches have held discussion groups about child abuse and family violence issues. The good results of these training activities need to be emulated in all regions of the country and introduced in a comprehensive fashion to all institutions where those in helping networks can play an active role in the prevention and identification of child abuse. A recent publication of the Ecumenical Family Ministries, *Ending Violence in Families*¹ has led to workshops in the theological colleges and in many Canadian provinces to train church leaders and members of the clergy. The Church Council on Justice and Corrections has published a manual² and training materials that critically examine the historical role of religion in encouraging patriarchal values and issues of domestic violence.

1 R. Morris, ed., *Ending Violence in Families: A Training Program for Pastoral Case Workers*. Ecumenical Family Ministries. (Toronto: The United Church of Canada, 1988). [Also available from the National Clearinghouse on Family Violence, Health and Welfare Canada, Ottawa].

2 Canadian Church Council on Justice and Corrections, *Family Violence in a Patriarchal Culture* (Ottawa: Canadian Church Council on Justice and Corrections, 1989).

Recommendation 66

Professional schools and colleges should ensure that those who will work with children are competent to respond to cases of child sexual abuse disclosure, using a humane child-centred approach consistent with established community protocols and the laws of the land.

Kids Help Line

A new service in Canada, the Kids Help Line, organized by the Canadian Children's Foundation in May 1989, has drawn extensive response. In its first three months, 15,500 calls were received, covering a wide range of concerns. This service, staffed by professionals, is available to children in every part of Canada, through an 800 number and calls come from rural and remote areas as well as from urban areas.

The number of calls, as well as the serious nature of them, including suicide threats, indicates the degree of trauma existing. This service is available to children in both official languages on an anonymous basis.

Research Needed: New, Accurate and Relevant Information

It has been said earlier in this report that child sexual abuse as a topic in the literature was a subject in its infancy only a brief decade ago. Most of the research in the child sexual abuse area has been generated only during the 1980s. In fact, many of the research findings have not yet been published and are therefore not yet available for general consumption or adoption by practitioners. It also seems that many good research studies will remain difficult to access because not all findings will make their way into print, as there are not enough journals dealing intensively with this issue.

Most of the new information about child sexual abuse has been generated in the United States. There have been few major research projects in Canada. However, the data generated by the Badgley committee and by subsequent studies carried out by Canadian authors have

been received by a supportive international audience of scholars. We may have only just begun, but our beginnings are laudable.

The Importance of Research

The function of research must be to validate and clarify the effectiveness of current initiatives, including public awareness programs, investigation techniques, treatment initiatives and the value of pilot programs. The aim is to expand professional expertise, knowledge and information about current issues and activities. Over the next few years, the task will be to refine the research and evaluation agendas related to child sexual abuse. In addition, suggestions have been made about the need for a national statistical data base and research on specific areas such as the long-term effects of child sexual abuse, false allegations, and the effectiveness of bringing together several types of treatment on difficult cases.

The paucity of resources to support and fund research in child sexual abuse has also hindered research in this area. Practitioners and researchers often end up competing with one another for the few dollars that are available. It may seem difficult to argue for more research when we are not able to serve the children who are hurting today. Nevertheless, ongoing research must be a priority. There must be more opportunities for scholars to exchange information and identify priorities for research.

There are few national mechanisms for gathering information about child sexual abuse. Although Health and Welfare Canada, the federal Department of Justice and Statistics Canada are well placed to assist with the funding of research and the gathering of such information, we require an enhanced national program of research to be directed by experts who are well versed on the realities of the front line. The Canadian community looks to the federal level of government for leadership in declaring a long-term commitment of moneys for research and evaluation and in making available a national computerized data base that links Regional Resource Centres.

Federal Leadership in the Research Field

In May 1987, a Canadian Child Sexual Abuse Research Conference was held at the University of Toronto¹. Ninety individuals from several professions and disciplines met to discuss research issues, needs and policy issues. The two and a half days of meetings were not sufficient to identify research priorities. However, some important conclusions were reached:

- Extant research is being ignored and the relationship between research, practice and policy making is misunderstood. Practitioners and researchers need to come together.
 - Scholars need opportunities to meet to clarify concepts and to come to agreement about research methodologies.
 - Information provided by research must be interpreted and incorporated into existing ways of thinking in order to become applied knowledge. This will require the effort of scholars from many disciplines. Psychology, sociology, social work, law, nursing psychiatry, pediatrics and anthropology are some of the disciplines that must be tapped in the planning of any major research strategy.
- It appears that the discussion that began

in 1987 needs to be continued as part of a national effort to develop this area.

Health and Welfare Canada has been instrumental in gathering some information that could lead to the further articulation of research priorities in a report describing the state of the art². It also underlines that there is a need for systematic and comprehensive research. However, the co-ordination of research and the information exchange associated with such work must be carried out at a national level and must be supported by the efforts of individual researchers.

The current challenge for the federal government is to set out a timely and pragmatic agenda that is achievable and that has the full support of provinces/territories and the professionals in this field.

The federal government has an important leadership role and funding role in the field of research. The federal government is looked to for provision of overall co-ordination and direction for research activity, so advancement in knowledge can be achieved and disseminated across Canada for use wherever possible in assisting policy direction, program services and legislative direction. The federal government needs to be very proactive in disseminating research findings.

Research Granting Process

The present process of awarding research grants heavily favours the academic research community. There is no doubt that this specialized expertise is crucial. However, many non-governmental organizations and community groups need to be encouraged and enabled to participate more fully in research activity. The problem is that these organizations often lack research expertise. Thus it is important to join the interests of non-governmental organizations and community groups with the expertise of the academic researcher in a collaborative and effective manner. Research guidelines need to favour the involvement of resource people who have front-line experience and expertise in the child abuse area. Local co-ordinating committees and other front-line mechanisms need to participate actively in research activity so that new learnings are quickly absorbed and more readily disseminated among front-line practitioners.

An emerging dilemma is whether to concentrate the initiatives of research in one structure or to view research initiatives as an integral part of each Regional Resource Centre so that all aspects of child sexual abuse are studied simultaneously (see Recommendation 6).

The Special Advisor has concluded that at this initial stage it may be more appropriate to include research activities as an integral part of all Regional Resource Centres. In due course, it may be appropriate to establish a special National Research Centre.

What does seem to be critical at this stage is the need for the research community, including those within government who have responsibility for research funding, to come

1 R. Volpe et al, *Needs and Priorities for Research in Child Sexual Abuse: Final Report* (Toronto: University of Toronto, Institute of Child Study, January 1989), p. 24-29.

2 Health and Welfare Canada, *Child Sexual Abuse Overview: A Summary of 26 Literature Reviews and Special Projects* (Ottawa: Supply and Services Canada, 1989).

together to develop an overall framework and comprehensive strategy for research activity so that there is a clearer focus and sense of direction for the future.

There also needs to be greater consistency in funding policies and strategies so that everyone involved in research activity is working within a common framework and the focus of research has common premises.

The federal child sexual abuse funding initiative was announced in 1986. Millions of dollars have been allocated to advance activity in the child sexual abuse area. During this time, provincial/territorial governments and a range of community-based organizations have participated in many additional projects that were not supported by federal money. Much information has been generated in a few brief years.

However, it does not appear that a concerted effort was made to ensure that federally funded projects had a research and evaluation component. Although some departments have included evaluation components, there is no standardized approach. Nor does it appear that there is a systematic way of analysing or disseminating the tremendous amount of new information available through this child sexual abuse initiative.

Recommendation 67

That federal government departments ensure innovative federally funded projects in child abuse have a research or evaluation component. Information in the form of research summaries should be systematically published and distributed to the community of practitioners and researchers in child sexual abuse.

Other Partners in the Research Quest

Various national associations and professions, including associations of disabled persons, have a major interest in research. Their research departments may have access to information that is regularly generated by front-line staff. The gathering of such information and the analysis of such data are activities that could be most productive, if there were a major sharing of information between associations.

A major undertaking of the 1980s was the development of guidelines for professions to work together on domestic violence issues by an

interdisciplinary group of national professional associations¹. This work initiated a new level of collaboration and discussion that should be maintained and developed for purposes of clarifying research issues. In addition, if this national leadership of professionals from across so many disciplines could be replicated at provincial or regional levels, the sharing of goals and objectives about research issues would be more fruitful.

Recommendation 68

That Health and Welfare Canada continue to involve national associations, scholars, practitioners, professional groups, government agencies and research councils in dialogue about child sexual abuse and that, with the assistance of provincial/territorial governments, it encourage similar discussion at provincial/territorial levels for the purposes of clarifying information and research needs. Other relevant federal departments should also be involved. In addition, such discussions should include representatives of the relevant national level research councils such as the social sciences and humanities research council and the medical research council.

The Need for a National Statistical Data Base

Statistics Canada has responsibility for the Uniform Crime Reporting program. The crime reporting system in Canada has been in effect for some 20 years, but it has not been specifically collecting information about child sexual abuse. Advances in reporting data are becoming possible as technology becomes more refined. The responsibilities of police in the reporting of information have also been increased. Within the next three years, it is expected that data provided by police in reporting crimes will yield more specific information about the ages of victims, the ages of offenders and the nature of offences.

1 Diane Kinnon, *The Other Side of the Mountain*, Interdisciplinary Project on Domestic Violence (Ottawa.: Health and Welfare Canada, December 1989).

Health and Welfare Canada should ensure that it assists in making new information such as this accessible to those policy makers, researchers and professionals who can apply it.

It may not be appropriate to rely exclusively on the criminal justice system and police to provide statistical information about the nature and extent of child abuse in Canada. Their data are inevitably skewed toward the cases that are easiest to prove and most serious in terms of immediate injury. Child protection agencies, child abuse registers and other systems in the provinces and territories also have vitally important data on child abuse. However, at present this information is very difficult to use on a national level, because of differences in definitions and reporting criteria.

Recommendation 69

That the proposed Children's Bureau of Health and Welfare Canada, in conjunction with other federal departments and provincial/territorial departments, establish a federal-provincial/territorial committee to establish common definitions related to child sexual abuse so that a national statistical data base can be established.

Aboriginal Communities¹

For more than 100 years, Canadian society has tried and failed to assimilate aboriginal peoples. As our awareness about our past mistakes grows, we must be prepared to give back what we can to aboriginal communities. We all must share in the responsibility for providing assistance to aboriginal communities to resurrect aboriginal cultures, community values, self-respect and self-determination. While we set about this colossal task, native children continue to live with the effects of the past century of destructive experiences.

For too many generations, the broader community has decided what is best for aboriginal people. It has been felt that aboriginal people should learn from us. We are now discovering that we cannot help aboriginal people unless we are prepared to learn from them. Before we help, we must come to understand aboriginal values, spirituality and culture.

In my consultations as Special Advisor, I was struck by both the anger and the anguish of aboriginal women speaking about family violence and related issues. The Canadian public is gradually becoming aware that many of the problems being experienced today in aboriginal communities are attributable to the advent of European colonization. Canada's current Human Rights Commissioner recently noted that an Indian youngster has a better chance of ending up in prison than of completing university².

Two native writers recently described these effects:

Voices

The Eagle Has Landed

In 1850 a group of Hopi Elders were having a ceremony. In the ceremony they were shown that the native people were in their midnight and they would come into their daylight when the eagle lands on the moon. At that time they would become world leaders. Those old people did not know what that prophecy meant but handed the story down from generation to generation until... when 1969 the astronauts landed on the moon and the message they sent back to earth, which said..."The Eagle has landed!"

Hopi Elders

In 1969 the Elders finally knew what the prophecy meant about the Eagle. That was the week the first Alcohol Treatment Program opened up for North American native peoples. The Midnight was treaties, residential schools, alcoholism and violence.

Maggie Hodgson

National Strategy Workshop, May 1989

1 The term "aboriginal" is used to refer inclusively to Indians, Métis and Inuit. The term "Indian" refers to a registered or Status Indian whether on or off the reserve. The term "native" is used to refer collectively to Status Indians and Métis.

2 Maxwell Yalden, *Annual Report of the Canadian Human Rights Commission* (Ottawa: Supply and Services Canada, 1989).

Since colonization the damage continues unabated. We see endemic conditions of drug and alcohol dependency, family violence, child sexual abuse, failure in school, unemployment, incarceration, lack of housing, disease and violent death. These hydra-headed problems are exacerbated by government-sponsored institutional programs that continue to blindly undermine native values in community life¹.

Another writer reflects on the problem of native women:

Native women who were raised in convents or residential schools often have little or no knowledge about sexuality. Sometimes they have been taught very distorted concepts. They do not have the experience of sexuality being discussed in the open. Indeed, the whole topic of sexuality may be acutely embarrassing, and the subject avoided. Some view all sex as painful or disgusting, and cannot distinguish between "good touch" or "bad touch." They may see sexual abuse as punishment for sinful thoughts or actions and blame themselves for it².

The Special Advisor was told several times about the problem of sexual abuse during the era of residential schools for aboriginal children. Most of these schools have long since closed, but many aboriginal leaders see them as the origin of the sexual abuse of children in aboriginal communities, as well as a prime cause of a deterioration in parenting skills in aboriginal communities.

The chances for an aboriginal child to grow into adulthood without a first-hand experience of abuse, alcoholism or violence are small. Canadians were first told in August 1989 about the events surrounding the 1971 sexual assault and murder of a 16-year-old native girl in The Pas, Manitoba. It appears that even though many white members of the community had known about the circumstances leading to her death, 18 years had passed before this information was revealed by those who had

conspired in silence. The tragic reality is that many aboriginal people have been victimized and the non-aboriginal community has largely ignored their suffering.

The Many Different Aboriginal Communities

It must be understood that there are more than two dozen different aboriginal languages spoken in Canada. Each language represents a different community. Inuit people number only around 22,000 and live in small and remote communities of the far north. There are Status Indians who live mainly on reserves. There are others who have lost the Indian status over the years, but who continue to live with native values. The aboriginal community also represents those who are Métis. In addition, many natives have moved to urban areas where they are experiencing a new kind of isolation.

It is important to understand the differences. For example, each Indian nation has its own spiritual base and, although there are similarities, healing that is appropriate for aboriginal people must take into account spirituality. There is also the question of language and the different ways in which aboriginal people express their feelings and ideas; these are often framed in ways different from those of European origin.

Social, Economic and Personal Development

The long-range future involves a redevelopment of the basic social and economic realities for many aboriginal communities. Without changing the conditions that reflect a lack of control and community involvement and that contribute to hopelessness, economic dependency, poverty, social assistance and other measures are but Band-Aids. Thus economic, community and personal development are the underpinnings to the long-range future for aboriginal children.

1 R. and M. L. Obomsawin, "A Modern Tragedy: Family Violence in Canada's Native Communities," *Vis-à-vis* (Ottawa: Canadian Council on Social Development, winter 1988).

2 B. Daily, cited in *The Spirit Weeps*, edited by Tony Martens (Edmonton: The Nechi Institute, 1988), p. 114.

There is consensus among leaders in the aboriginal communities that the issue of child sexual abuse should be addressed within a comprehensive framework, and not in isolation from family violence, alcohol and drug abuse, child and family services, etc.

Spirituality

The resurgence of spirituality as a part of aboriginal cultures is a most positive development. It was evident during the National Strategy Workshop in Ottawa in May 1989 that the aboriginal culture offers a rich heritage that can be helpful to the non-aboriginal community.

Aboriginal Leadership

Given the many differences and sensitivities, any action taken to help aboriginal children must be done in consultation with aboriginal leadership. The Nechi Institute near Edmonton is an example of an impressive centre of aboriginal leadership for dealing with problems in aboriginal communities, including violence in the family and the sexual abuse of children.

The approach taken at the institute is to view various problems in a comprehensive context, the first problem being alcoholism. As aboriginal communities move toward an increasing rate of sobriety, issues of family violence, including child sexual abuse, become paramount. The Nechi Institute stresses the importance of leadership and community development within the band, individual counselling for cases of disclosure, and the continued use of specialized outside consultants and experts working in partnership with aboriginal leadership.

There is an additional concept of leadership in some aboriginal communities that must be recognized. This is the concept that every person is a co-leader with capacity to contribute to the well-being of all. Thus natural leaders must be involved in building the future. The process of dialogue, healing and development are cornerstones for the future. Attention must be given to assisting aboriginal leadership to become responsible for their own development and for shaping the future.

Problems Specific to Child Sexual Abuse

Aboriginal people say that the question is often not to improve service, but to initiate service because there is so little. Aboriginal communities need access to trained staff, backup support services at a district level and special arrangements to deal with difficult travel conditions.

Many band chiefs and councils who have been concentrating on issues like the settlement of land claims have not yet focused on child sexual abuse. Because some aboriginal leaders still do not recognize how crucial child and family services are to their communities, the problem is not being adequately addressed.

Other Issues to Be Settled

It is especially difficult to deal with a particular social problem such as child sexual abuse in isolation when considering aboriginal communities. Inevitably, the many larger issues relating to relationships and policies among and between the various levels of government and the communities must also be considered. The complicated nature of social assistance requirements and provisions for status natives are highlighted in the 1989 Report of the federal Auditor General:

The absence of a clearly defined federal mandate for social development activities has resulted in uncertainty regarding the roles and responsibilities of the federal and provincial governments with respect to the delivery and funding of social services to Indians¹.

The report elaborates:

The federal government has accepted responsibility for funding social services to Indian communities because of the reluctance of most provinces to do so. The money

1 Ken Dye, *Report of the Auditor General of Canada* (Ottawa: Supply and Services Canada, March 31, 1988), section 14.27.

required to "fill the gap" now amounts to \$400 million annually. DIAND funds social services to Indians through a myriad of agreements with bands, provinces and territories. As a result, there are inconsistencies in services available to Indians, both among and within provinces, and in service and funding standards reporting requirements and federal-provincial cost-sharing arrangements¹.

The imprecise nature of these arrangements has precipitated disputes between the department and the provinces regarding funding responsibility for certain social services. As of 31 March 1988, claims against the federal government were more than \$70 million².

A legislative mandate would provide the foundation for the department's policies regarding Indian services and for its accountability to Parliament. Most importantly it would help Indian people understand what services and benefits they have a right to. In the case of social development activities, a legislative mandate would facilitate defining and formalizing the responsibilities of Canada, the provinces and territories and Indian bands in delivering and funding these services³.

The Auditor General concludes with this recommendation:

The Department of Indian Affairs and Northern Development should seek a clear legislative mandate for funding and delivering services to Indians in the areas of post-secondary education assistance and social development⁴.

The delivery of child protection services and support counselling varies. In some places, native child welfare agencies and service are available at the band or district level. In many instances, there is no aboriginal child welfare agency and services are delivered through regional, provincial or territorial child protection agencies, sometimes without native involvement.

A major block in delivering effective service is the unresolved issue between the federal and provincial governments related to responsibility for "on-reserve" and "off-reserve services."

Special Problems

Problems related to systems for aboriginal communities are particularly pronounced and are urgently needed to be resolved in order that long-range development under aboriginal leadership can be accomplished. Some of these issues include:

- overlapping and unco-ordinated resource systems, including provincial/territorial child protection agencies, the federal Department of Indian Affairs and Northern Development, the Medical Services Branch within Health and Welfare Canada, and the aboriginal leadership;
- difficulties in negotiations between the federal, provincial/territorial governments and Indian bands or tribal councils related to additional resources for aboriginal child welfare agencies and the creation of additional aboriginal child welfare agencies (although there is some recent indication of progress in some of these negotiations);
- the inclusion among many aboriginal communities of victims, abusers, investigators and therapists within the same extended family, which would require training to use the extended family in a supportive fashion as well as recognition of the special problems and benefits of these types of relationships;
- varying states of readiness among aboriginal communities to assume more responsibility for their own services;
- low trust and credibility between aboriginal groups and governmental sectors;
- the need to overcome more than a century of attempted assimilation and resulting dependency and refocusing efforts on a long-range development strategy; and

1 Dye, *Report of the Auditor General*, section 14.29.

2 Dye, *Report of the Auditor General*, section 14.31.

3 Dye, *Report of the Auditor General*, section 14.33.

4 Dye, *Report of the Auditor General*, section 14.35.

- the outmoded *Indian Act*, which is not suited to today's objectives of developing self-reliance or child welfare matters (the *Indian Act* is restricted to Status Indians on reserves).

A Direction for the Future

Only a few years ago, it was very difficult to talk frankly in aboriginal communities about alcohol abuse. Now there is much more openness in discussing the problem, and many community education and treatment initiatives are evident. The sexual abuse of children is still a largely hidden phenomenon and is often denied. Adult abusers whose crime becomes known in their communities may consider themselves disgraced and may sometimes commit suicide. There could hardly be a more volatile or sensitive issue at present.

Ultimately, it must be aboriginal leadership and communities that bring about better understanding of the issues and make it possible for treatment and other support functions to be developed. New and revised policies (self-government, Indian child and family services), strategies (economic development), and flexible funding arrangements are tools that can be used by bands, tribal councils and aboriginal organizations to develop a comprehensive and integrated approach to change the socio-economic dependencies in their communities. Effective long-term change will take at least one or two generations. In the meantime, there are some developments that can be pursued.

- Aboriginal child welfare agencies have been growing in strength, particularly in Manitoba and Ontario. These agencies can do much more if they receive resources to hire child abuse co-ordinators and to fund native-led healing services. In co-operation with the aboriginal peoples, the federal government should enact an *Aboriginal Child Welfare Act* and establish an aboriginal child welfare system by the year 2000. It should include provisions for Treaty Indians, and also ensure comparable policies and services for non-treaty aboriginals.
- The growing number of concerned aboriginal women is a source of hope for the future. If they receive both moral and

financial support to effect the gradual rebuilding of aboriginal cultures, native women can take a lead. Many of these women can be lay counsellors and have an important healing role, although it must be appreciated that many of them may themselves be survivors who need sensitivity training and support.

- There are some excellent programs being developed in cities like Vancouver, Winnipeg and Toronto to serve the growing numbers of urban natives. These programs need to be strengthened and expanded in other cities.
- Aboriginal leaders have asked for a national forum on child sexual abuse for aboriginal peoples. They are anxious to work with non-native people with expertise in developing such a forum. Such an event could mark a significant turning point in bringing the dimensions of this problem to light.
- Aboriginal leaders are identifying the need to restore aboriginal spiritual values in the community, to provide parenting education, to reverse patterns of family violence, including child sexual abuse, by rebuilding personal, family and community values, as well as to provide personal development and leadership development experiences and skills. These topics should be addressed at a national forum.
- Individual counselling and group therapy are urgently required for native sexual offenders. They offer the only hope to reorder personal values, to support emotional development, and to modify the compulsive behaviour that otherwise will result in a continuing pattern of sexual assaults. Incarceration often has little or no effect in changing the behaviour patterns of those affected by compulsive disorders.
- Some of the larger aboriginal communities are seeking the establishment of resident criminal courts for dealing with less serious offences. This would allow regular processing of less serious crimes and would free the visiting criminal court to deal with more serious cases. Currently, sexual assault cases are usually at the end of the docket and sometimes are rushed because of the visiting court's

heavy schedule. There must be progress on giving aboriginal communities greater control over their own justice system and crime problems. In the Yukon, there is an innovative program to make greater use of native Justices of the Peace to deal with less serious charges.

- Finally, the excellent leadership taken by the Nechi Institute and other native-run services should be supported. Similar centres should be supported in each province as places where culture-appropriate training and resources could be made available to aboriginal communities in building a national strategy to address this problem.

With all these realities in mind, it is an urgent requirement that the federal government ensure that aboriginal leaders are assisted to develop an ongoing and long-range strategy to resolve a multitude of issues.

In co-operation with the aboriginal peoples, the federal government should develop a mental health policy for aboriginal peoples by the year 2000. It should include provisions for Treaty Indians, and also should ensure comparable policies and services for non-treaty aboriginals.

Aboriginal populations must develop their own solutions to long-range problems, including the provision of services to be delivered by their own people, thus providing viable alternatives to the inadequate services now provided.

There needs to be a recognized body established that is primarily aboriginal in membership but with appropriate government representation involved. This Expert Advisory Committee needs to develop a five-year action plan that will address the concerns outlined.

Recommendation 70

That the federal government appoint an Aboriginal Expert Advisory Committee on child abuse with a mandate to develop a five-year action plan¹ to address child abuse and

¹ Government and native child welfare agencies have already initiated programs to address aboriginal child sexual abuse. Where solutions are evident, communities will be undertaking immediate action. Along with these immediate steps, however, it is anticipated that a longer-range strategy will be needed; hence the reference to five years.

related issues in aboriginal constituencies. The Expert Advisory Committee should be made up of aboriginal representatives, including band councils, aboriginal associations, aboriginal workers, child abuse experts and representatives from appropriate government jurisdictions. The Expert Advisory Committee should hold national and/or regional consultations with representatives of aboriginal communities to ensure that the emerging plan reflects the realities and concerns of local communities.

The Expert Advisory Committee should address a broad range of issues including the following:

- culturally relevant approaches to public education and primary prevention of child sexual abuse for aboriginal populations;
- strategies to change the social-economic dependency of aboriginal cultures;
- strategies to cope with child abuse and related problems for each province and territory and/or region;
- required supports from provincial/territorial and federal levels of government;
- appropriate use of holistic approaches and culturally appropriate requirements for healing;
- recognition of the value of involving elders, the extended family and native women in the healing process;
- identification of special requirements for those living north of the 60th parallel;
- strategies for increasing the numbers of aboriginal professionals as well as for increasing the ability of non-native professionals to provide culturally appropriate services to natives;
- strategies for the resolving of differences and tensions involving child abuse among native and aboriginal groups, including the need for aboriginal child welfare agencies;
- plans to enact an Aboriginal Child Welfare Act;
- development of strategies to deal with child abuse and related problems among aboriginals living in urban settings;
- development of strategies to meet the distinct needs of Métis people with regard to child abuse;

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- development of a mental health policy with the federal and provincial/territorial governments for aboriginal people; and
 - consideration of the feasibility of establishing special resource centres related to child abuse in the aboriginal community on a permanent basis.

The Expert Advisory Committee should present a report within 18 months to the Minister of National Health and Welfare and through him to the other appropriate federal ministers.

The report should outline a work plan with stages of development and the sequence of initiatives which will be required to make substantial improvement.

Emerging Concerns: Special Groups

Introduction

More attention needs to be addressed to particular populations because they may be even more vulnerable to child sexual abuse than the general population. These populations include disabled children, including physically, mentally, hearing or visually handicapped; very young children; children living in institutions; and children recently arrived in Canada, particularly from those from refugee camps. These populations also include those living in rural and remote communities.

It is apparent that our systems lack the capacity to respond to all of the children in our society who have been the victims of abuse. It is even clearer that we lack sufficient understanding, training and resources to respond to children who have special needs. In most of these situations, the problem is not one of improving or enhancing existing services, but rather of creating a response capability that has not yet been fully conceptualized and of changing the conditions that contribute to increased vulnerability. Therefore, what follows are ideas that may serve as a useful reference point for embarking upon a development process to better serve these children.

Children in Institutional or Residential Settings

Children in care have been the consumers of our existing service delivery system. Some have experienced abuse by parents and by some of those who have been their guardians and custodians. The views of the National Youth In Care Network (NYICN) can help us understand some of the special problems faced by those who

have been in institutional or residential settings. These are children who have been taken into care by child welfare authorities, who have been in conflict with the law, or who suffer from an emotional disorder or are mentally handicapped.

Young people come into the care of the child welfare system to be helped. In their own homes, they have often been the victims of abuse or neglect. In Ontario, almost 35% of children and youth enter care because of abuse; in Saskatchewan, recent statistics indicate that this is the case for almost 25% of the youth-in-care population. Many times, situations of poverty, drug or alcohol abuse, or violence between their parents have led to their needing protection.

Often the victims of abuse by their parents or relatives, young people enter care expecting safety, but all too often tragically experience continuing abuse. The NYICN is a national organization established by and is run by and for young people who are or were in the care of the child welfare authorities across Canada. Thirty-two young people attending the 1989 NYICN annual meeting answered a questionnaire on sexual abuse. Twenty-one had been sexually abused, of whom eleven spoke about having been sexually abused while in care by foster parents, foster siblings or child care workers¹.

A report by Ross Dawson, *The Abuse of Children in Foster Care*², also reveals a pattern of abuse in foster care, albeit with relatively low rates for the total population of child care, but disturbing figures for adolescents.

Many provinces are studying their child-in-care programs, including foster homes and institutional settings. A 1987 report by the

1 Raychaba, *We Got a Life Sentence*.

2 Ross Dawson, *The Abuse of Children in Foster Care*, (Toronto: Ontario Association of Children's Aid Societies, 1983).

Saskatchewan Department of Social Services and the provincial Foster Parents Association¹ highlights several needs: clearer program direction, better foster parent training and staff training, improved case planning, the need for additional resources, attention to standards for quality of care, procedures for investigating allegations of abuse, remuneration arrangements and public awareness programs.

Another kind of abuse for these young people comes in a more subtle form. One young victim described that upon her entrance into care, it quickly became apparent that she was the focus of treatment and not the abuser, and she became the problem, not the abuser. "All of a sudden, I had all of these personal problems I never knew about before." The NYICN agrees:

It is vitally important that those treating us recognize that we have to be party to our healing.... A young person needs "their time" and doesn't appreciate being pushed into treatment too fast and too far. We demand that the child victims be allowed to be children. Don't force us to grow up too quickly. Give us time to be just children. Forcing us to "deal with the issues" at such an early age is a theft of our childhood. Choice is crucial. We know what helps us, and what doesn't. We must have some say....²

A pervasive fear among young people who have been abused is that they will become abusive parents. They know when their behaviour is abusive, and they wonder whether their feelings and behaviours are "normal." They understand that they need self-help programs to discuss their feelings, drug and alcohol rehabilitation services, parent education and childcare training, as well as extensive after-care support. Finally, they speak of the need to be empowered and to better understand relationships between men and women so that they can achieve stability, security and a sense of control over their lives.

Young survivors feel alone and different, as though sexual abuse is something that has happened only to them. They feel very strongly that all people need to know that children are being abused and that it is wrong. The NYICN

believes making Canadians fully aware of the extent and the nature of the problem of child sexual abuse has to be a priority.

Caregivers who work with children and adolescents in a residential setting report that as many as 80% of children in care have been sexually abused at some point in their lives. The incidence for these children is much higher than that for children living in their own homes.

Sometimes it is known that the children have been abused before entering care, but often it is not until the child arrives at a residential setting that there is a disclosure or a recognition of a long history of abuse. In turn, the residential setting may present risks for these children in terms of further abuse.

When children finally reach the point of entering care, the history of abuse may have developed devastating effects, which results in severe acting out, sometimes in ways that are dangerous to other nearby children. All of this suggests special requirements:

- the caregivers who work with children in care must be thoroughly screened, must receive training about child sexual abuse, and must be linked to child abuse specialists in the community;
- those who make policy and direct the programs within institutions and residential care facilities must develop internal policies for dealing quickly and fairly with suspected child sexual abuse within these facilities; and
- governments must set standards for the care of children in institutions and residential care settings that address the training required of staff and volunteers as well as the procedures to be followed by the institutions and residences in educating children and the staff, and must also provide resources that will allow the establishment of a comprehensive strategy to deal with child sexual abuse.

Very Young Children

Professionals have been expressing increasing frustration at trying to help very young children in abusive families. These children are more fully hidden from public view than older children and it is of course much more difficult to understand what is happening to

1 L. Ens and T. Usher, "Child in Care Review" (Regina: Saskatchewan Department of Social Services, April 1987).

2 Raychaba, "We Got a Life Sentence," p. 4.

them. Unless they attend daycare or unless the family is visited by a public health nurse, abuse may continue undetected for their most vulnerable early years of life.

It is very difficult to get a disclosure from very young victims, because they are more easily threatened or because they lack the understanding to know that they are victimized. Very young children also have difficulty in communicating their experiences.

Even when there appears to be little doubt that very young children are being abused, prosecution often cannot proceed because of the age of the only witness – the child. Court professionals, including police, Crown Attorneys and judges, often do not respond with sensitivity to the needs of very young victims, and court environments continue in most communities to be particularly uncomfortable for young victims. The communication and investigation skills required of helping professionals must be finely honed to provide a special kind of support.

Children Who Are Disabled, Emotionally Disturbed or Mentally Handicapped

To date, improvements in the social services and legal systems have largely ignored the problems of these victims. Our paternalistic or even hostile attitudes have kept disabled or handicapped victims of sexual abuse isolated from our response systems. As with very young victims, it has also been more difficult to supervise and counsel disabled children, especially those who are mentally disabled.

A recent research study by the G. Allan Roeher Institute re-affirmed that this constituency is at higher risk than normal populations. The author, Charlene Senn, summarizes:

Thus, when national prevalence studies are combined with those studies which specifically studied people with developmental disabilities, it must be estimated that between 39% [Badgley et al 1984] and 68% [Hard 1986] of girls with developmental disabilities and between 16% [Badgley et al 1984] and 30% [Hard 1986] of boys with developmental disabilities will be subjected to sexual abuse before they reach 18 years of age. These figures

are staggering at their lowest estimate and clearly indicate the need for prevention and intervention strategies¹.

While sexual abuse occurs in institutional settings, it also occurs in group homes, foster homes and in families of origin. With the current trend towards de-institutionalization, the need for services in the community to address the needs of the sexually victimized child will be increased².

In the light of the reforms of Bill C-15, further effort is needed to take advantage of this new legislation so that populations with special needs are dealt with more sensitively and adequately. This is an area that demands continued examination.

For disabled and emotionally disturbed children then, the problems are complex. Knowing how best to respond to these children is a challenge that has not yet been resolved. However, some insights are emerging:

- disabled, mentally handicapped and emotionally disturbed children need special education to help them assess what is sexually and socially appropriate;
- disabled, mentally handicapped and emotionally disturbed children who have been abused need very concrete forms of counselling, and education;
- mentally handicapped offenders need therapy, counselling and education to reverse their offending behaviour before they become "addicted" to sexually abusing others;
- those who work with mentally handicapped victims and offenders of all ages in the social services and justice systems must be trained to interview these people and work to make the systems responsive to their special needs;
- as society moves toward integrating the disabled into schools and facilities with other children, all professionals and volunteers will need training to help these children with special needs; and

1 Charlene Senn, *Vulnerable: Sexual Abuse and People With an Intellectual Handicap* (Downsview, Ontario: York University, G. Allan Roeher Institute, 1989), p. 28.

2 Senn, *Vulnerable*, p. 151.

- those who work with disabled and mentally handicapped children and adults must receive training in child sexual abuse to assist them in recognizing abuse and helping those who have been abused.

Children Who Are New Canadians

The social and ethnic composition of Canada is changing. Major cities have felt the impact of absorbing families from different cultures at a rapidly increasing rate. When the children from these families attend Canadian schools, they sometimes may begin to separate from their families as they learn a new language and some of the values of North American children. Their parents meanwhile often have more difficulty in assimilating, and continue to communicate in their native languages and live according to their native values. The resulting differences sometimes lead to tension within these families.

If a family comes from a culture where family violence has been a way of life or where sexual abuse has been prevalent, they need rapid reorientation to the laws and culture of Canada.

In some cases, immigrant families have come from refugee camps where living conditions have prompted a destructive way of life. In these camps, children are usually the first to suffer victimization. Some of these children may need extensive therapy.

Isolation, language differences, new pressures and conflicting values are barriers that can make it more difficult to provide treatment to children from new Canadian families. We do not fully understand how to provide the best intervention with these children. We also lack skilled workers who can communicate effectively in the languages of many new Canadians.

Recommendation 71

That the Children's Bureau of Health and Welfare Canada, in conjunction with other federal departments, the provinces and territories and appropriate non-governmental associations and professional groups, establish a special task force or federal-provincial/territorial committee to examine the issues of child abuse for children in institutional

settings, very young children, disabled and disturbed children and new Canadians. The task force should be asked to report within 18 months with comprehensive strategies to reduce the risk of child abuse for these children.

Children in Rural and Remote Communities: The Trauma of Isolation¹

A child who is abused and who lives in a city is very much alone in fear and isolation, even though others are physically present. A child who is abused and who lives in a rural or remote community is alone and often with little hope. There are not even people to call for help. Telephone lines may be operator-assisted and there is little hope for privacy in making a call for help. Sometimes the rural and remote areas have to wait for good weather so that police and special services can visit. Those who are used to larger communities can scarcely imagine the extent of the emotional and physical distances that keep abused and frightened people separated from needed help.

Professional and other resources to deal with such problems are limited or non-existent. Those who are equipped to work with child sexual abuse also have to deal with all the other major problems that affect families and are often overwhelmed. Small police detachments cover extensive areas, and medical and health care services are restricted. Some teachers may take an interest but, because there are few therapists available, these teachers may end up carrying much of the burden of counselling. There are few facilities appropriate for interviewing young victims in small and isolated communities and investigators have to make use of any space available. Moreover, confidentiality is a serious problem because most people know each other.

In rural and remote areas of Canada, resources are extended beyond the breaking point. Victims, their families and the offenders cannot be treated within their own communities and the time lag between disclosure and intervention can be many months long. The workers are exhausted.

¹ Rural communities are those accessible by road; remote communities are those accessible only by air or water.

Voices

As a family therapist working in a child welfare agency in a lightly populated, geographically large county, I have to work professionally mostly on my own. On the one hand, I have considerably more flexibility in how I do my job than others do. I am more able to be responsive to the needs of this community and I believe other professionals in similar situations need to give themselves permission to use their talents and strengths to be creative and that the agencies and systems have to give this permission as well.

On the other hand, there are several drawbacks. Travelling distances to reach a clientele which often has no means of coming to you is time-consuming and adds extra costs. One also has to be creative in finding office space in schools, churches or hospitals (usually a photocopying or book room). I have to work largely without clinical supervision or consultation, which I see as being a more serious situation. Although I do have a support system in the agency staff, I largely have to seek out my own opportunities for training, networking and renewal, although generally I have had my agency's blessing to do so. Finally, there should be three of me and at this point services to people have to be prioritized.

Pat Russell
A Rural Social Worker, Amherst,
Nova Scotia

In remote areas, there is usually no permanent judicial presence; judges typically visit remote communities only for court sittings. Complaints about long delays in hearing cases are common. Particularly in cases where the victim and alleged offender cannot escape seeing one another regularly, the long delay adds trauma. In some localities, investigators also are flown in. For others, the victim and the offender are flown out, often long distances, to centres that are strange to them for support and treatment.

Such communities might find the following suggestions helpful.

- Training materials for workers, volunteers and children should be made available on videotape or should be accessible through television or telephone systems like the Northern Ontario Telecommunications Network.
- Special grants should be available to child sexual abuse experts and to colleges and universities that are prepared to bring training programs to rural and remote areas. Specialized teams might work out of regional resource centres to serve remote areas in their region.
- "Travel funds" should be established by governments, perhaps with corporate assistance, to enable residents of rural and remote communities to travel to other centres for training, treatment and support.
- Indigenous leaders should be recognized for their skills in listening and healing, and should be trained and supported financially by governments so that they can become lay counsellors in their communities.
- Trained lay counsellors should then be encouraged to become part of a series of natural helping networks in rural areas. The networks should be linked by newsletters and supported by regular training sessions. A model to emulate is that of the Restigouche Family Crisis Intervenors in New Brunswick¹.

1 G. Daigle, J. Dupuis, P. Lerette and S. Nelson, "Family Crisis Intervention in Restigouche County, New Brunswick" *RCMP Gazette* 45 (9): 6-10.

Recommendation 72

That the Children's Bureau of Health and Welfare Canada in conjunction with the provinces and territories and appropriate non-governmental associations and professional groups establish a special task force or federal, provincial/territorial committee to examine the issue of child abuse in rural and remote communities. The task force should be asked to report within 18 months with comprehensive strategies to deal with child abuse in rural and remote settings.

Stages of Implementation

As has been emphasized in this report, the strategies required to treat the victims of child abuse and to reduce its incidence are complex. The problems are related to patterns of behaviour and attitudes which have evolved over a long period of time. Realistically it will take several years of sustained effort by all levels of government, various disciplines, many organizations and the community as a whole before significant progress is made.

Co-ordination and system change are key themes in this report. Additional resources will also be required in some areas. It will not be feasible to implement all the required changes at the same time. In fact, considerable investigation in some areas and analysis are required before appropriate action can be taken. With these factors in mind, the Special Advisor recommends that a plan of staged implementation be adopted so that a sequence of activities may be undertaken over a number of years.

Structure and system changes should be undertaken in the first years so that mechanisms are established to manage the long-term initiatives. These changes need to be firmly established so that program and service initiatives do not founder at a later stage. There are areas which require study, and better definition of the problems and solutions. These can be started in the first two years and then dealt with over a period of years as clarity emerges about what must be done. A staging strategy also is more feasible for those changes which require new or additional resources. An annual incremental approach will be more manageable at a time when all governments are financially constrained.

It is recognized by the Special Advisor that government officials will need to study the implications of the various recommendations before finalizing an official response to the report and undertaking action.

The need for swift action is critical, however. It is over five years since the release of the Badgley committee report. Although a number of its recommendations have been implemented, there is still a great deal to be done to implement a national strategy for combatting child sexual abuse. Many hundreds of people across Canada have contributed to the present review of this serious issue. Expectations are high that the federal government will give leadership and respond to the recommendations which have been put forward.

It is important that governments not proceed solely with further internal study, but begin a carefully staged action program, which over time can have a major impact in combating child sexual abuse. The delicate matter of achieving federal-provincial/territorial agreement and managing cost escalation can be accomplished by consultation and by entering into a staged implementation program.

The Work Plan

The work plan needs to be viewed as an investment process where each stage is a building block as well as an investment in the future. In an era of scarce human and financial resources, significant change is possible only if a step-by-step strategy is followed. The work plan also needs to be viewed as an inclusive strategy, where every possible resource both inside and outside government, and at every level – local, regional, provincial, territorial and national – is encouraged to join together for a common cause.

The suggestion of a staged implementation program is based on a number of premises. They are identified as follows:

- There are aspects of child sexual abuse where there is enough experience and knowledge to enable specific initiatives to

be undertaken immediately. In these areas it is proposed that Expert Advisory Committees, federal- provincial/ territorial consultation mechanisms and community-based organizations be encouraged to deal with issues and solve problems within designated time periods.

- There are other areas where there is a need for further analysis, more knowledge or greater consensus before action is undertaken. For these items, it is proposed that special task forces/committees be mandated to investigate the area and to develop an action plan.
- There are resource issues, critical to improving front-line services, which require federal-provincial/territorial consultation and study, along with a staged implementation plan over several years, which will gradually make a significant difference in improving the quality of services.
- Process items and structure changes should be implemented before the current special federal funding program for child sexual abuse runs out in 1991, so that current momentum is maintained.
- Clear responsibility centres within governments are essential to give leadership to a long-term agenda and so that government leadership and assistance can be sustained over a long period.
- Along with responsibility centres within government, it is necessary to help develop a strong national coalition of organizations in the non-governmental sector to advocate for children and to monitor government performance.
- Child sexual abuse will be a pressing community and social problem for at least the next decade and there will need to be sustained efforts to combat it during this period. Periodic reviews and assessments can determine when special programs and structures may be discontinued or altered, as substantial improvements have been achieved.
- Improved specialized training activity in the field of child sexual abuse of a multi-disciplinary nature can result in major improvements in the quality and sensitivity of service to children by professionals, volunteers and the many systems designed to serve them.

Further consultation must not simply mean further study and postponement of action. It means consultation to develop a plan of action. With these various factors in mind, a three-stage implementation plan is recommended.

Stage One: The First Six Months

To help get the work plan under way, the first suggested step is to name the Minister of Health and Welfare Canada as the Minister Responsible for Children (see Recommendation 1). Health and Welfare Canada can then begin to implement a work plan under the Minister's direction to ensure that adequate steps are taken to deal with the Special Advisor's report.

The first six months following the release of the report will be needed for study and analysis by government officials. This can be considered *Stage One*.

Recommendation 73

That within six months of the release of this report, the federal government should issue a statement indicating what action it intends to take in response to the report's recommendations.

Current Initiatives Which Should Be Continued

There are several activities which are already under way and which need to be sustained or in some cases expanded.

Stage Two: The Next Eighteen to Twenty-Four Months

Stage Two is the period when structured changes should be completed, to facilitate the long-term agenda. Expert Advisory Committees and task forces/committees should be established and begin their work. Finally, the complicated task of developing a staged

cost-sharing program should be initiated. Because many areas of work will require the close collaboration of federal and provincial/territorial governments, the pattern of ongoing consultation and planning needs to be put in place.

Stage Three: The Following Three Years

Stage Three is proposed as the following three years during which longer-range activity will set the stage for a continuing program of solutions to combat child sexual abuse.

As implementation proceeds, it will become much clearer what continuing efforts of a long-term nature are required. A number of the recommendations have to do with getting started on a program that will continue over several years. Each year the federal government will be better equipped to outline targets for change and to indicate its continuing commitment to long-range solutions.

Recommendation 74

That the federal government publish an annual report describing its progress in combating child abuse.

The federal government has well-established precedents for issuing annual reports regarding special initiatives. One example is the response to *Obstacles*, the 1981 report of the Special Parliamentary Committee for the Disabled and the Handicapped. The federal government issues an annual report of its progress in implementing that committee's recommendations. A commitment to releasing annual reports related to the Special Advisor's report and combating child sexual abuse should help dispel the notion that the report may be destined to "gather dust on the shelf." Eventually these reports may be expanded to deal with a full range of children's issues and the United Nations Convention.

Beyond Stage Three

Following are the elements that should be addressed beyond 1995:

- Primary prevention strategies to combat child sexual abuse, including public attitude shifts about sexual roles and the need to protect vulnerable persons in society will still be far from completed.
- Areas which require further experience and knowledge may be considerably advanced and ready for new solutions to be implemented.
- Long-term change and support to aboriginal communities as they assume more responsibility for their destiny and overcome deprivations of the past will hopefully be more evident. This in turn can assist the broader community to better understand how to support these developments.
- Strategies to overcome the problems of vast distances and geographic isolation in Canada as they pertain to support services hopefully will be developed. Children with special needs may be better understood and the services they need better delineated.
- The federal-provincial/territorial cost-sharing program should have enough experience from pilot programs that additional resources may be allocated on an annual basis to deal with crucial needs on the front line.
- If the whole process is successful, consensus building and improved communication networks will have advanced children's well-being in Canada, and our most precious resource for future generations will be enhanced.

Schedule

The following chart outlines the proposed work to be done in each of the three stages by various jurisdictions.

Chart of Implementation

<i>Health and Welfare Canada</i>	<i>Other Federal Departments</i>	<i>Provinces/ Territories</i>	<i>Community/ Professions Schools</i>
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Stage 1: The First Six Months

Rec. 1 (Chapter 3)
Minister of National Health
and Welfare is designated
Minister for Children

Rec. 73 (Chapter 10)
Government responds to the
Special Advisor's report

Current Initiatives to be continued

(Chapter 3)
Federal Interdepartmental
Committee on Family
Violence

Rec. 14 (Chapter 4)
Support for National Film
Board Family Violence
Collection

Rec. 50 (Chapter 5)
Voluntary sector
organizations continue
to deal with child abuse
with HWC support

Rec. 55 (Chapter 6)
Mental Health Committee
completes its work

Rec. 59 (Chapter 6)
Federal departments
continue to fund research
and evaluation studies

Rec. 68 (Chapter 7)
Ongoing consultations with
all sectors to clarify infor-
mation and research

(Chapter 3)
Federal Interdepartmental
Committee on Family
Violence

Rec. 27 (Chapter 5)
Initiatives related to
education, monitoring,
re implementing
Bill C-15

Rec. 28 (Chapter 5)
Charter challenges to
Bill C-15 are defended

Rec. 59 (Chapter 6)
Federal departments con-
tinue to fund research
and evaluation studies

Rec. 68 (Chapter 7)
Ongoing consultations
with all sectors to clarify
information and research

Rec. 9 (Chapter 3)
Interdepartmental
co-ordination

Rec. 15 (Chapter 4)
Dialogue of Council of
Ministers of Education
and Education Associations
re child sexual abuse

Rec. 16 (Chapter 4)
Education jurisdictions
continue to expand
child safety programs

Rec. 31 (Chapter 5)
Implementation of
Bill C-15

Rec. 48 (Chapter 5)
Compensation from
Criminal Injuries
Compensation Boards
is fully utilized

Rec. 55 (Chapter 6)
Mental Health Committee
completes its work

Rec. 17 (Chapter 4)
Community awareness
programs are expanded
with support from all
levels of government

Rec. 21, 22 (Chapter 4)
Churches and children
and youth organi-
zations increase
activities of child
abuse education and
prevention, screening,
etc.

<i>Health and Welfare Canada</i>	<i>Other Federal Departments</i>	<i>Provinces/ Territories</i>	<i>Community/ Professions Schools</i>
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Stage 2: The Next Eighteen to Twenty-Four Months

Rec. 2, 3 (Chapter 3) A responsibility centre for children in HWC is set up	Rec. 18 (Chapter 4) Justice department completes preparation of child pornography legislation for intro- duction to Parliament	Rec. 10 (Chapter 3) Assessment is undertaken to strengthen local co- ordinating committees for child abuse co- ordinators	Rec. 11 (Chapter 3) Medical Associations review issues facing medical community
Rec. 2 (Chapter 3) Ongoing discussions with provinces and territories are instituted	Rec. 19 (Chapter 4) CRTC develops policy to reduce violence and sexually exploitive broadcasting	Rec. 13 (Chapter 3) Role in monitoring the effectiveness of children's services is expanded	Rec. 12 (Chapter 3) Protocols at com- munity level are updated or developed
Rec. 2 (Chapter 3) Analysis of ratifying and implementing United Nations Convention on the Rights of the Child is completed	Rec. 29, 30 (Chapter 5) Further changes to the Criminal Code and the Evidence Act by Justice department are pre- pared for 1992 review by Parliament	Rec. 23 (Chapter 5) Charging policy is reviewed and updated	Rec. 20 (Chapter 4) Professional associ- ations set out policies to clarify member responsibilities
Rec. 4 (Chapter 3) National Resource Centre is set up	Rec. 34 (Chapter 5) Architectural study re courtrooms and court- houses is commissioned	Rec. 24 (Chapter 5) Protocols address the delay of treatment	Rec. 62, 65 (Chapter 7) Professional schools and colleges, including law schools, ensure curriculum is adequate for professional students
Rec. 5 (Chapter 3) Assistance is given to the development of a non- governmental coalition	Rec. 35, 37 (Chapter 5) National Judicial Education Centres incorporate materi- als for training of judges, and educational programs are further developed	Rec. 26 (Chapter 5) Policies and legislation regarding autopsies are reviewed	
Rec. 6 (Chapter 3) Location of first three Regional Resource Centres is selected	Rec. 36 (Chapter 5) Justice department funds study regarding ethical issues for defence counsel	Rec. 29, 32 (Chapter 5) All jurisdictions establish policies re expert witnesses	
Rec. 7 (Chapter 3) Four Expert Advisory Committees are established	Rec. 46 (Chapter 5) Leadership is undertaken by Justice department in establishing Unified Family Courts across Canada	Rec. 33 (Chapter 5) Policies are in place to give priority to the scheduling of child sexual abuse cases	
Rec. 8 (Chapter 3) In consultation with provinces/territories, plan for a new cost-sharing program is developed		Rec. 43, 44 (Chapter 5) Legislation is amended regarding giving evidence in civil cases, parallel proceedings and the use of transcripts	

<i>Health and Welfare Canada</i>	<i>Other Federal Departments</i>	<i>Provinces/ Territories</i>	<i>Community/ Professions Schools</i>
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Stage 2: (continued)

Rec. 57 (Chapter 6)
Federal government
in partnership with
provinces/territories
studies particular
problems in providing
treatment services to
rural and remote
communities

Rec. 69 (Chapter 7)
Initiative is taken in
consultation with other
federal and provincial/
territorial jurisdictions to
establish a national
statistical data base

Rec. 70 (Chapter 8)
Aboriginal Expert
Advisory Committee
begins consultations

Rec. 71 (Chapter 9)
Special task force/
committee begins work
in studying the needs of
children in high-risk groups

Rec. 72 (Chapter 9)
Special task force/committee
begins work on strategies to
meet needs in rural and
remote communities

Rec. 74 (Chapter 10)
Annual report by the
federal government
regarding child sexual
abuse is prepared and
released

Rec. 49 (Chapter 5)
Court role in ordering
compensation to victims
is studied

Rec. 51 (Chapter 5)
Solicitor General and
Privacy Commission
ensure permission for
disclosures of criminal
offence records related
to abuse, for those
seeking positions of
responsibility for
children

Rec. 67 (Chapter 7)
All federal departments
ensure evaluation com-
ponent is included in
innovative projects
which are federally
funded

Rec. 25, 45 (Chapter 5)
Rec. 61, 63, 64 (Chapter 7)
Policies and practices to
ensure front-line personnel
receive specialized training
are drawn up

Rec. 47 (Chapter 5)
Legislation is amended to
permit civil suits beyond
current statute of
limitations

Rec. 52 (Chapter 5)
Screening mechanisms to
use child abuse registers
established with federal
support are put in place

Rec. 53 (Chapter 5)
Common definitions for
identifying and registering
child abusers are developed

Rec. 54 (Chapter 6)
Healing needs of adult
survivors are recognized

Rec. 56 (Chapter 6)
Gaps in services are
assessed and changes
are implemented

Rec. 58 (Chapter 6)
Policies to share healing
strategies for victims with
other appropriate caregivers
are reviewed

Rec. 62, 63, 65, 66 (Chapter 7)
Comprehensive program for
ongoing training for front-line
professionals is designed

<i>Health and Welfare Canada</i>	<i>Other Federal Departments</i>	<i>Provinces/ Territories</i>	<i>Community/ Professions Schools</i>
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Stage 3: The Following Three Years

Rec. 2 (Chapter 3) Policy and implementation plans for United Nations Convention on the Rights of the Child are completed	Rec. 39, 30 (Chapter 5) Justice department reports to Parliament with recommendations regarding the Criminal Code and the Canada Evidence Act	Rec. 10 (Chapter 3) Increased support is given to community co-ordinating mechanisms and co-ordinators	Rec. 5 (Chapter 3) Recommendations are received from Child Advocacy Coalition for further improvements
Rec. 6 (Chapter 3) Two additional Regional Resource Centres are established	Rec. 36 (Chapter 5) Results of study regarding ethical issues for defence counsel in child sexual abuse are distributed to law societies for action	Rec. 42 (Chapter 5) Adequate services are provided for 16- and 17-year-old adolescents	Rec. 6 (Chapter 3) Reports are received from established Regional Resource Centres
Rec. 7 (Chapter 3) First reports from all Expert Advisory Committees are reviewed	Rec. 38, 39 (Chapter 5) Treatment programs are expanded for child abusers and experimental post-charge programs are developed	Rec. 38, 39 (Chapter 5) Treatment programs are expanded for child abusers and experimental post-change programs are developed	
Rec. 8 (Chapter 3) Results from first year pilot cost-shared programs are assessed; second and third year programs are initiated	Rec. 40, 41 (Chapter 5) Legislation is introduced to extend probation and parole terms	Rec. 40, 41 (Chapter 5) Legislation is introduced to extend probation and parole terms	
Rec. 55 (Chapter 6) Recommendations from Mental Health Committee are implemented	Rec. 52 (Chapter 5) Consultation with all jurisdictions regarding common approach for identifying, registering and screening child abusers is completed	Rec. 48 (Chapter 5) Provinces ensure access of victims to compensation	
Rec. 67 (Chapter 7) Findings from research studies are widely circulated	Rec. 60 (Chapter 6) Strategies for effective sex offender treatment in institutions are implemented	Rec. 52 (Chapter 5) Consultation with all jurisdictions regarding common approach for identifying registering and screening child abusers is completed	
Rec. 68 (Chapter 7) Leadership in furthering research activity continues		Rec. 60 (Chapter 6) Strategies for effective sex offender treatment in institutions are implemented	
Rec. 71, 72 (Chapter 9) Reports from special task forces re special constituencies and rural and remote committees are completed			
Rec. 74 (Chapter 10) Annual report by the federal government regarding progress on child sexual abuse is received			

Roles and Responsibilities of Federal and Provincial/Territorial Governments

In major part, the prevention and management of family violence, including child sexual abuse, rests on the actions of four systems: health, social services, justice and education. These systems are interactive in their responses to family violence.

The constitutional distribution of powers in Canada assigns to the provinces the major share of responsibility for these four systems. For instance, the provincial governments are responsible for the administration of justice and the administration and delivery of social and health services. Laws in relation to education are an exclusive provincial responsibility.

However, the federal government plays a large financial role in supporting these provincial mandates by way of a range of equalization payments, block funding and cost-sharing agreements. In addition to its funding activity, the federal government undertakes a leadership role in social policy, is responsible for criminal law and procedure, delivers some direct services to certain populations (aboriginal peoples on-reserve, federal inmates, military personnel) and facilitates information dissemination and exchange, research and coordination. Through delegation of legislative authority, the federal government has transferred a number of powers to the Territories similar to those of the provinces.

With respect to aboriginal populations, particularly in respect to Status Indians, the federal and provincial/territorial roles are subject to a very complex and wide-ranging series of agreements that sometimes include up to 100% funding, cost-sharing or the direct provision of services in the area of law enforcement, education and health. Recent trends toward self-government are shifting the responsibility of service delivery to Status Indians on-reserve and to the Inuit, with the federal government currently providing the majority of funding.

Prepared by:
The Special Advisor to the
Minister of National Health and Welfare
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June 1990

Overview of the Federal Government's Response to the Badgley Report 1984 – 1989

Recommendation 1: Establish Office of Commissioner

Initiatives

In December, 1986, the Deputy Minister of National Health and Welfare established the Family Violence Prevention Division as the centre for the coordination of federal initiatives on family violence, including child sexual abuse (CSA).

In August, 1987, Mr. Rix Rogers was appointed for a two year period as Special Advisor to the Minister of National Health and Welfare on Child Sexual Abuse.

The activities of the Special Advisor and the Family Violence Prevention Division are strengthened by the \$20 Million allocated to National Health and Welfare in June, 1986, for funding initiatives to address child sexual abuse over a five year period.

To date, the Department has coordinated funding for 198 projects, workshops, seminars and other activities aimed at governmental, and non-governmental officials, professionals and the public working in/concerned with child sexual abuse.

Recommendation 2: Education for Protection

Development and implementation of a continuing national program of public education and health promotion relative to prevention.

Initiatives

Health and Welfare Canada

To date, no large scale public information campaign on child sexual abuse prevention has been implemented. Rather, priority has been given to programs directed towards education and skill development of service providers working in the field. The primary reason for this is that broad-based public information campaigns would create increased demand on service providers which they would not be equipped to meet.

The Family Violence Prevention Division's National Clearinghouse on Family Violence provides, proactively, a variety of general information and technical materials on child sexual abuse to governmental and non-governmental officials and professionals as well as to the general public. It has an extensive, automated collection of reference materials on child sexual abuse, as well as other forms of family violence. The Clearinghouse's strategy emphasizes reciprocal information exchange, aimed at encouraging active sharing of information and solutions among those working in the field. It will be actively involved in disseminating the finished products of projects funded under the Child Sexual Abuse Initiative.

The Clearinghouse's printed resources are supplemented by a large collection of films and videos. It's Family Violence Film Collection has been a highly successful public education campaign. This collection of over 50 films on child sexual abuse and other forms of family violence has been viewed by over 4.8 million Canadians as of June 1988.

The Clearinghouse pays the booking charges so that the films from this collection are available free of charge to the general public or professionals working in family violence issues through regional National Film Board offices.

The Clearinghouse, in collaboration with the National Film Board, was involved in the telecast of the film *To a Safer Place*. The user's guide and the telecast notices for this film were disseminated by the Clearinghouse to over 17,000 people working in the field of family violence.

In addition to the foregoing, a number of special projects funded by Health and Welfare under the Child Sexual Abuse Initiative have contributed to education and training for service providers and volunteers:

"*Put the Child First*" is a project sponsored by the *Canadian Council on Children and Youth* (CCCY) under which a national preventive training package for youth serving organizations and their volunteers has been developed. CCCY is training eight national youth serving organizations who will in turn train their volunteers regarding child abuse.

"*Child Abuse Prevention Program*" by the *Canadian Red Cross Society - BC/Yukon Division* is a prevention program which covers writing and printing of a manual for volunteers delivering the program to adolescents.

"*Family Violence Prevention Project*" by the *Community Child Abuse Council for Hamilton/Wentworth, Ontario* has developed a curriculum based K-12 (OAC) family violence preventive education program.

The *Clinique de Protection de L'enfance* of the *Hopital Ste-Justine, Montreal* has developed an *Annotated Inventory of Child Sexual Abuse Prevention Programs*. This comprehensive, bilingual publication is the first of its kind in Canada.

The *Maritime Parent Sexuality Education Project* sponsored by the *Canadian Association for Community Living* is concerned with educating and training parents of individuals with a mental disability to teach and counsel their children about sexuality and appropriate socio-sexual behaviour. The project covers three provinces, New Brunswick, Nova Scotia and Prince Edward Island.

"*Think for Yourself: A Sexual Abuse Prevention Project for Hearing Impaired*" sponsored by the *Vancouver Society for the Deaf* is a child sexual abuse prevention program aimed at the hearing impaired.

Department of Justice

A comprehensive law information program plan has been developed to ensure that Canadians are aware of and have access to information about the profound changes to the law regarding the sexual abuse of children. Present publications include a story book for children about disclosing sexual abuse entitled *Secret of the Silver Horse*, and a booklet for adults explaining what to do if a child discloses sexual abuse entitled, *What To Do If A Child Tells You Of Sexual Abuse*. There will also be a guide for social workers and other professionals containing detailed information on the new law.

To facilitate the implementation of the amendments effected by Bill C-15, *An Act to Amend the Criminal Code and the Canada Evidence Act*, the Department has established a Demonstration Project Fund and a Child Sexual Abuse Public Legal Education and Information fund (PLEI).

To date, several demonstration projects aimed at enhancing services for victim/witnesses in courts and testing the use of videotaping have already been funded.

As well, funds have been allocated to various governmental and non-governmental organizations to hold conferences and develop workshops and training programs that provide information concerning the new legislation for justice personnel, police, social workers and other professional groups.

The PLEI fund has been established to encourage provincial/territorial governments and community/national organizations working with children, visible minorities and native peoples to produce public legal education materials pertaining to the recent amendments. To date several training programs have been funded.

The above initiatives derive funding from \$5 million allocated to Justice in 1986 to be used for examination of the legislation with regard to prostitution and pornography as well as an evaluation of Bill C-15. This money is to be allocated over a four year period which commenced in 1986-87.

Department of the Solicitor General Missing Children/Runaways

In December 1985, the Ministry announced a major initiative on missing children to provide an accurate picture of the extent and nature of the problem in Canada. This national program included:

A Missing Children's Registry, established in Ottawa, under the auspices of the RCMP, to assist police forces and concerned agencies in locating and identifying missing children. The Registry continues to serve as Canada's national clearinghouse on missing children;

A National Symposium on Missing Children, held in Toronto in April 1986, to facilitate consultations with various levels of government, police and voluntary groups;

The Missing Children Research Project, involving the Ministry Secretariat, RCMP Headquarters, and four police agencies in Montreal, Toronto, Edmonton, and the Surrey Detachment of the RCMP, was undertaken in September 1986 to increase our understanding of the extent and nature of the problem of missing children and its links with other problems such as family violence and child physical or sexual abuse. The final report is receiving widespread distribution.

The Ministry has also funded a number of educational conferences addressing the problem of missing children:

- *Symposium on Street Youth* (1986; 1987), sponsored by Covenant House, Toronto, Ontario.
- *Child Find Canada National Conference*, November 2 – 4, 1989, Calgary, Alberta.

The Ministry has provided funding for various projects and programs relative to child sexual abuse including:

- The Hamilton – Wentworth Police Department, in conjunction with the Federal Bureau of Investigation (FBI) National Academy, sponsored a police training session on *Child Molestation and Sexual Exploitation*.
- The Newfoundland Working Group on Child Sexual Abuse produced a document entitled, *Child Sexual Abuse: An Inventory of Services and Resources in Newfoundland and Labrador* that has enhanced co-ordination and cooperation between police, health, social and community agencies.

- *The Child Advocacy Project* in Manitoba was established by the Child Protection Centre to examine some of the dynamics of child sexual abuse treated at the Children's Hospital in Winnipeg. In 1987, the Ministry funded the preparation of a report entitled, *A New Justice for Indian Children* addressing child sexual abuse on Manitoba Indian reserves.
- In conjunction with the RCMP *Missing Children's Registry*, the Ministry is developing a national handbook on abduction to assist parents whose children have been abducted by offending spouses, especially offending parents who cross international borders.

The Ministry has financially assisted and actively participated in various conferences and workshops relative to child sexual abuse education that include:

- *The Dynamics and Treatment of the Intra-Familial Child Sex Abuse Offender* and *The Treatment of Intra-Familial Child Sexual Abuse*, both held in Newfoundland, November 1988;
- *In Defense of the Victims*, St. John's Newfoundland, May, 1989.
- *The Prevention of Sex Offenses in the Community*, Fredericton, New Brunswick, September, 1989.
- *Investigative Interviews in Child Abuse*, St John's, Newfoundland, October 26 – 27, 1989.

National Victims Resource Centre

In August 1984, the Ministry established the National Victims Resource Centre to make a wide variety of information available to government and private agencies across Canada who are providing services to victims of crime, including child sexual abuse. In conjunction with Health and Welfare Canada's National Clearinghouse on Family Violence, the Centre was founded to help victims of crime deal more effectively with the consequences of their victimization. On April 1, 1989 the Resource Centre was officially transferred to the Department of Justice. National Health and Welfare acquired the family violence portion of the centre for its National Clearinghouse on Family Violence.

Recommendations 3 to 15, 17 to 23, 25 and 26, 44 and 45, 48

These recommendations have been responded to by *An Act to Amend the Criminal Code and the Canada Evidence Act* (Bill C-15) (see attached summary for details).

Initiatives

Department of Justice

S.C. 1987 c.24 *An Act to Amend the Criminal Code and the Evidence Act* (Bill C-15) came into force on January 1, 1988, gives effect to many of these recommendations.

In response to the Committee, the Bill creates several new offenses in relation to children and young persons, which include, touching for a sexual purpose, invitation to sexual touching, and sexual exploitation. These offenses make it no longer necessary to show that sexual intercourse has taken place to obtain a conviction.

Pursuant to recommendations of the Committee, the Bill also creates new and separate offenses of compelling someone to commit bestiality and committing bestiality in the presence of young persons.

As well, the *Criminal Code* is amended to provide an additional and specific protection to young victims by the creation of a new offence of exposure of the genitals for a sexual purpose to a young person.

The Badgley Committee recommended that the age of consent to acts of buggery be reduced from 21 years to 18 years of age and that the provision which makes 14 the age of criminal responsibility for incest and illicit sexual intercourse be repealed. Bill C-15 gives effect to both recommendations.

Bill C-15 repealed three *Criminal Code* provisions which prevented the prosecution of certain sexual offenses after one year had elapsed from the time that the offence was committed.

The Bill also extends the rules respecting recent complaint, evidence concerning the sexual activity of the complainant, and reputation evidence to cover all sexual offenses. As well, the defence of consent is no longer available to an accused charged with sexual assault with a

weapon or aggravated sexual assault. The Badgley Committee recommended each of these changes.

In addition to the creation of new offenses, amendments were made to the rules of evidence. Pursuant to the Committee's recommendations, amendments to the *Criminal Code* and the *Canada Evidence Act* have removed the need for corroboration before a conviction based only on the unsworn evidence of a child can be sustained and a procedure is now provided whereby if a child cannot be sworn or affirmed, he or she may still testify if able to communicate the evidence.

The new legislation also addresses child prostitution. In keeping with the recommendations of the *Badgley Report*, two offenses were created to impose a heavier penalty for living off the avails of prostitution and to penalize customers of child prostitutes, in any context. (Adult prostitution is legal, in a limited context.)

Legislation redefining the offence of street soliciting was passed in December 1985 and requires that a Parliamentary committee review the impact of the change. In April 1989, the House of Commons designated the Standing Committee on Justice and Solicitor General for this purpose, and it is expected that the committee will begin its hearings in the fall. The review must be completed within a year after commencement.

In order to support the review, the Department of Justice completed research assessing whether the amendment was achieving its purpose. A synthesis report, *Street Prostitution: Assessing the Impact of the Law*, has been prepared in French and English and was released August 1, 1989. One of the issues which the report addresses is the effect of the law on juvenile prostitutes.

All the recommendations contained in the *Badgley Report* with respect to child pornography were reflected in Bill C-54, which was introduced into the House Of Commons on May 4, 1987. Although the greater portion of the correspondence to the Minister regarding Bill C-54 was favorable, there was a strong negative reaction with respect to the definition of pornography and possible breaches of the *Charter*. At the same time, there was general agreement that the law should expressly prohibit pornography involving children or violence.

With the dissolution of Parliament on October 1, 1988, the Bill died on the Order Paper. The inadequacies of the present law of obscenity remain and the government is determined to provide for more effective measures to curtail the spread of pornography involving children, as well as violent pornography.

Recommendation 16: Research into Sexually Transmitted Diseases (STDs)

Initiative

Health and Welfare Canada

An Expert Interdisciplinary Advisory Committee on STDs in Children and Youths (EIAC - STDs) was established in the fall of 1986 with a 5-year mandate to address this issue. In November, 1986, this committee made sixteen recommendations pertaining to Sexually Transmitted Diseases in Children and Youths. The majority of the recommendations have and are being addressed under the coordination of the Laboratory Centre for Disease Control in Health and Welfare. Three projects to develop guidelines related to the treatment, management and examination of sexually transmitted diseases have been undertaken. As of October 1989, of 120 000 copies of *Treatment Guidelines*, 119 000 have been distributed to family physicians, gynaecologists, medical and nursing students, STD clinics and others. Fifty five thousand (55 000) copies of *Diagnostic and Management Guidelines* dealing with the examination of Sexually Abused Children have been similarly distributed.

To date, funding has been provided for 12 Laboratory Centre for Disease Control (LCDC) projects dealing with STD's, including the following:

The *Canadian Hospital Association* conducted a study to determine, identify and evaluate the existence and nature of hospital protocols for responding to cases of child sexual abuse and STDs in children and adolescents.

The *Canadian Nurses Association* carried out a survey of STD curriculum in Canadian schools of nursing.

McMaster University's School of Nursing is conducting a survey of health professional's attitudes and knowledge regarding STDs in children and youth.

The *Canadian Public Health Association* undertook curriculum development, management and delivery of two pilot courses for professional training in STDs and child sexual abuse.

The *Laboratory Centre for Disease Control* in Health and Welfare conducted its own survey to assess and evaluate the extent of STD education in Canadian schools of medicine.

Recommendation 24: Enactment of Provincial Child Welfare Legislation

To provide for access to evidence of past incidents of child abuse by "past parents" to further protect the child from potentially repetitive abuse (e.g. S.28 of the Ontario Child Welfare Act). The federal government is not able to initiate provincial child welfare legislation.

Recommendation 26: Ban on Publication of Victims' Names

Protection of publication of victims names in Transcripts of court proceedings; legal reporting services to comply as well.

Recommendation 27: Court Appointed Officer

To ensure compliance with Rec. 26 once implemented. (Note: This is shared federal-provincial jurisdiction.)

Initiative (Federal)

Department of Justice

Bill C-15 provides that a judge or justice may make his or her own motion or shall on application, make an order directing that the identity of the complainant or a witness who is

under the age of eighteen years and any information that would disclose their identity shall not be published in any document or broadcast in any way.

This non-publication order is available in respect of all sexual offenses.

To the extent that the subsection makes the ban on publication mandatory upon application by a prosecutor or complainant, the Supreme Court has dealt with the issue that it goes against freedom of the press. Supreme Court has recently upheld the section under section 1 of the *Constitution Act 1982*, while acknowledging that it does limit freedom of the press.

Recommendation 28: Special Programs National Conference

Initiatives

Health and Welfare Canada

The Family Violence Prevention Division, in conjunction with the Special Advisor to the Minister on Child Sexual Abuse, hosted a National Workshop on Child Sexual Abuse in May, 1989 which brought together over 250 people working in the field of child sexual abuse.

In June of 1989, the Family Violence Prevention Division convened a National Forum on Family Violence with over 400 people working with all forms of family violence (child abuse, wife abuse and abuse of the elderly).

To date, the Department has coordinated funding for 45 national and provincial consultative workshops in the area of child sexual abuse.

Department of the Solicitor General

In keeping with the Solicitor General's leadership role in policing and law enforcement, the Ministry has funded and participated in several national programs organized to improve the criminal justice response to child victims. The agenda of these conferences reflected the recognition of the importance of child sexual abuse among the many problems faced by this vulnerable sector of our society:

Symposium on Street Youth (1986 ; 1987), sponsored by Covenant House, Toronto, Ontario;

A National Symposium on Missing Children was held in Toronto in April, 1986 to facilitate consultations with various levels of government, police and voluntary groups;

A National Conference on Children in the Justice System was held in British Columbia, June 1988;

The National Conference on Victim Assistance – The Canadian Perspective, May 1989, Calgary, Alberta;

Child Find Canada's National Conference, November 2-4, 1989, Calgary, Alberta.

Recommendation 29: Uniform Minimum Standards of Services (Investigation, Assessment, Care)

(Note: This is shared federal-provincial jurisdiction.)

Initiatives (Federal)

Health and Welfare Canada

Coordinated funding for 11 projects, to date, to respond to recommendations on the need for uniform minimum standards of service in the investigation, assessment and care of sexually abused children, including the following:

The *Health Services Directorate* of Health and Welfare has developed guidelines on child sexual abuse prevention and intervention for community workers.

The *New Brunswick's Department of Health and Community Services* developed a multi-disciplinary investigator's course on child sexual abuse. This two-week program involved the training of police, crown attorneys, child protection workers and other workers involved in the investigation of child sexual abuse.

Under the auspices of the federal/provincial territorial *Advisory Committee on Institutional and Medical Services*, a multi-disciplinary group developed Guidelines for establishing standards: Health Care related to abuse, assault, neglect and family violence. These guidelines cover child abuse (physical, sexual and emotional), wife assault, rape and elder abuse.

Recommendation 30: Medical and Hospital Services

Development of standard protocol (collection of information, examinations, recorded findings, etc...). (Note: This is shared federal-provincial jurisdiction.)

Initiatives (Federal)

Health and Welfare Canada

Coordinated funding for eight projects, to date, which facilitate the development of standard medical and hospital protocols for the collection of information, conduct of examinations, recording of findings and other necessary procedures. Most of these projects relate to protocols and guidelines for sexually-transmitted diseases.

Recommendation 31: Provincial Child Welfare Statutes and Child Abuse Registers

Relative to: specification of assessment procedures; development of standard protocols.

Review of: operations; legal aspects of procedures; potential discontinuance unless rendered more effective. This recommendation falls under provincial jurisdiction.

Recommendation 32: Criminal Injuries Compensation Board (CICBs)

Campaign to inform citizens of existence and purpose of CICBs; review funding of Criminal Injuries Compensation programs.

Initiative

Provincial Jurisdiction

All activities related to victims of crime are within provincial jurisdiction. However, the activities of the Federal Provincial Task Force

and subsequent Working Group on Justice for Victims of Crime have had considerable impact on the level of awareness associated with compensation programs for victims.

Recommendation 34: Amend Legislation Relative to Criminal Injuries Compensation (CIC)

To provide explicitly for compensation of physical and emotional pain and suffering. (Note: This is shared federal-provincial jurisdiction.)

Initiative (Federal)

Department of Justice

The Minister of Justice announced on November 5, 1987, a comprehensive \$27.2 million federal initiative to assist victims of crime. Bill C-89, an Act to amend the *Criminal Code, Victims of Crime* received Royal assent on July 21, 1988 as S.C. 1988, c.30.

Compensation costs are cost-shared by the Department of Justice with the provinces. Federal involvement is limited to cost-sharing to the extent of the number of crimes identified and listed in the Criminal Code (44 at present). New cost-sharing agreements with provinces/territories have been renegotiated and await provincial concurrence.

Recommendation 35: Information Systems Official Crime Statistics

Uniform system of classification, standard core of information.

Initiatives

Statistics Canada

Statistics Canada has the lead with respect to the Uniform Crime Reporting (UCR) survey which has been in place since 1962. Development of a new incident-based survey has been ongoing since 1984. This development takes

advantage of computer technology currently in use in police departments to collect more comprehensive crime data.

This new survey collects demographic information (age, sex) of both victims and suspects as well as detailed circumstances of the incident itself. A general phasing-in of the new survey is planned until 1992, at which point over 85% of crime data will be in the new incident based format. Selected data from the revised Uniform Crime Reporting survey will be available in the early part of 1990.

N.B. This initiative operates under the guidance of the Canadian Centre for Justice Statistics which reports to a committee of Federal/Provincial Deputy Ministers responsible for the administration of Justice.

Department of Solicitor General

The *Missing Children's Registry* became operational on July 6, 1986, under the auspices of RCMP Headquarters, pursuant to a request from the Ministry of the Solicitor General to create a Central Registry on Missing Children. It is linked to the *Missing Persons File* at the *Canadian Police Information Centre (CPIC)* and automatically receives an unsolicited message whenever a police department in Canada enters, removes or modifies a missing child case on CPIC. As Canada's national clearinghouse on missing children, the Registry facilitates contact between Canadian police agencies, provincial and federal departments, U.S. agencies, and through Interpol, all foreign police departments. It maintains contact with external affairs, Canada Customs and Immigration, U.S. Immigration and Naturalization Services and volunteer agencies. The Registry prepares and distributes an annual report on the nature and extent of the missing children problem in Canada.

Recommendation 36: Disease Classification Systems

Expert Advisory Committee to review codes of the International Classification of Diseases, to develop a revised classification (physical injuries, emotional harms), to evaluate identification to encompass events or persons (e.g. incest).

Initiative

Federal-Provincial/Multidepartmental- Health and Welfare

Preliminary consultations held with Nosology Reference Centre of Statistics Canada. Global revisions of International Classification of Diseases (ICD) expected in 1993.

Recommendation 37:

Expert Advisory Committee to recommend implementation of findings under 36, to review means of applying revised classification to services provided on an ambulatory basis, to make representation to the WHO to effect amendments to the International Classification of Diseases.

Initiative

Health and Welfare Canada

Revision of ICD expected by 1993.

Recommendation 38: Child Protection Services

Review of classification of sexual offenses against children and youths used by child protection services with a view to establishing a common core of information. (Note: This is shared federal-provincial jurisdiction.) No initiative yet undertaken.

Recommendation 39: Research Review

Review and assess all research undertaken/funded by the Government of Canada dealing with sexual abuse and sexual offences against children and youths in the Criminal Code.

Initiative

Not yet undertaken

Recommendation 40: National Research Funded and Focused On:

- a) injuries to sexually abused children (efficiency of clinical programs, nature of long-term harms, effective prevention, detection and treatment);
- b) STDs contracted by children (types and long-term risks);
- c) long-term effects of exposure of children to pornography;
- d) needs and treatment of convicted child sexual offenders;
- e) recidivism of convicted child sexual offenders.

Initiatives

Health and Welfare Canada

National Health and Welfare has initiated a series of activities to respond to the recommendations in this category. To date, 129 projects have been funded to identify, review and organize existing information pertaining to child sexual abuse. Three (3) other projects are underway to investigate the many dimensions and effects of injuries and sexually transmitted diseases on sexually abused children. Examples of some of these projects are:

The *Canadian Child Welfare Association* is producing a listing of treatment programs for child sex offenders in Canada.

The *Marymound School, Winnipeg, Manitoba* is developing and evaluating a treatment model for adolescent male sexual abuse victims and offenders.

Queen's University has produced a report on Street Youth and AIDS and STDs which examines some of the underlying factors such as child sexual abuse and family violence in general.

The National Health Research Development Program and National Welfare Grants funded 26 literature reviews and annotated bibliographies in child sexual abuse. The reviews focussed on prevention, treatment, training and

other issues such as organizational and community response to child sexual abuse. Some key issues researched included the following:

- Queen's University* – assessment and treatment of the adult male child sexual abuser;
- Thistletown Regional Centre for Children and Adolescents* – transitional residential treatment programs for incest offenders;
- University of Toronto* – treatment of the male sexual offender;

Department of the Solicitor General

A number of research and pilot projects have been initiated by the Ministry relative to sexual offending and the treatment of sex offenders. As part of a comprehensive research project on family violence, information on the nature and incidence of child physical and sexual abuse and neglect is being collected from participating agencies in three Northern Alberta communities. As part of an interministerial review of Bill C-15, the Ministry, in conjunction with Health and Welfare Canada and the Department of Justice, is also involved in a project examining the criminal justice response to victims of child sexual abuse in the Province of Ontario. Issues related to training, education and interagency coordination of frontline professionals will be specifically addressed in these research initiatives.

The Ministry has undertaken a program of corrections research that has included a survey of treatment programs for sex offenders in Canada and the U.S. as well as studies on the role of deviant sexual arousal in sexual offending and alternative techniques for measuring sexual arousal. In 1988, the Working Group with representatives from the Ministry Secretariat, the Correctional Service of Canada, the National Parole Board in collaboration with provincial and territorial officials, undertook an investigation of sex offender treatment in Canada. The Working Group conducted a comprehensive review of the treatment literature on sex offender treatment, held discussions with practitioners in programs across the country and prepared a report on its findings.

Recommendation 41: Juvenile Prostitution: Development of Special Education Programs relative to risks associated with juvenile prostitution

Initiatives

Health and Welfare Canada

To date, Health and Welfare has funded six projects to facilitate the development of special educational programs related to the risks associated with juvenile prostitution, including:

Covenant House Second Symposium on Street Youth, a symposium to explore the links between running away and child abuse; missing children and child abuse; and discussion on the impact sexual abuse in childhood has on the development of the adult.

National Consultation on Juvenile Prostitution hosted by the Canadian Child Welfare Association was a multi-disciplinary conference which determined strategies of effective prevention and response to juvenile prostitution.

Department of Justice

To date Justice has funded 4 projects to facilitate the development of special education programs related to the problem of juvenile prostitution.

Recommendation 42: Provincial Child Protection Services

Develop special programs to serve needs of young prostitutes, etc... (Note: This is provincial jurisdiction.)

Recommendation 43: Special Multi- disciplinary Demonstration Programs

To reach needs of these youths (protection, counselling, education, job-training).

Initiative

Health and Welfare Canada

Only one project established to date but result of initiatives undertaken under Rec. 41 may lead to federal/provincial and multi-disciplinary undertakings of this nature:

The *Coastal Community Services* of Victoria, British Columbia has received funding for a downtown emergency services coordinator to oversee a multiagency service to youth at risk in Victoria. The service will cover intervention, education and advocacy strategies designed to improve the health and life quality of street youth including juvenile prostitutes.

Recommendation 44: Strengthening Enforcement Services

Establish a federal/provincial cost-sharing program to enable establishment of special police force units with specific responsibilities relative to prostitution.

Initiatives

Department of Justice

Under consideration.

Department of the Solicitor General

A federal/provincial cost-sharing program has not been established. Many police forces have recognized the need for specialized training in the area of children as offenders, including child prostitution, and have begun to address this need. Several large municipal police forces have created special units to address the problem. For example, the *Metro Toronto Police Force* has formed a *Juvenile Task*

Force to target juvenile prostitutes, particularly those runaway children who have joined the ranks of street youth engaged in illegal activities.

Recommendations 45, 46, 48: Prostitution Legislation Amendments – amendments to Criminal Code

Initiative

Department of Justice

Rec. 45, not proceeded with.

With respect to juvenile prostitution (Recs. 46 and 48) and in response to the Badgley Committee, Bill C-15 contains specific legislation relating to juvenile prostitution which imposes a criminal sanction against customers of young persons and a harsher penalty for living on the avails of juvenile prostitution. In addition, the presumption that a person who lives with or is habitually in the company of prostitution is, in the absence of evidence to the contrary, living on the avails of prostitution will now apply when the evidence shows cohabitation or accompaniment of a *single* prostitute.

Recommendation 47: Give Prominent Publicity to the names of persons convicted of soliciting juvenile prostitutes under 18

(Note: This is federal-provincial jurisdiction.)

Initiative

Not yet undertaken.

Recommendations 49 and 52: Legislative Amendments on Pornography

Initiative

Department of Justice

The Badgley Committee recommended that the *Criminal Code* be amended to provide for a specific definition of child pornography and related offenses, including the possession of child pornography, its production, and the use, incitement or agreement to use persons under 18 in the production of pornography. The Department of Justice funded a conference to discuss the current research on the effects of pornography in June 1988 in Montreal.

Bill C-54 was introduced into the House of Commons on May 4, 1987. Although the greater portion of the correspondence to the Minister regarding Bill C-54 was favorable, there was a strong negative reaction with respect to the definition of pornography and possible breaches of the *Charter*. At the same time, there was general agreement that the law should expressly prohibit pornography involving children or violence.

With the dissolution of Parliament on October 1, 1988, the bill died on the Order Paper. The inadequacies of the present law of obscenity remain and the government is determined to provide for more effective measures to curtail the spread of pornography involving children, as well as violent pornography.

Recommendation 50: Review Operation of Central Registry of Customs Seizures

Initiatives

Revenue Canada, Customs and Excise

Not yet undertaken.

Recommendation 51: Specific Measures to Deal with the Worst Forms of Pornography

Initiatives

Justice/Revenue Canada—Customs and Excise/RCMP

Specific measures to be identified since Bill C-54 died on the Order Paper on October 1, 1988.

Addendum Summary – Bill C-15

Summary of Recommendation 3.1

Keep s.146(1) (Sexual intercourse with girl under 14) but reduce maximum from life to under 14 years.

Summary of Recommendation 3.2

Keep s.146(2) (Sexual intercourse with female aged 14-16) but repeal s.146(2)(b) (needs previously chaste character) and s.146(3) (accused not guilty if not more to blame).

Summary of Recommendation 3.3

Amend s.140 to specify that the consent of a child under 16 is no defence (rather than under 14, as at present) to charges under s.146 (sexual intercourse, girl under 14; aged 14 to 16).

Response

Since the passage of the *Canadian Charter of Rights and Liberties*, discrimination based on sex cannot be sustained. Accordingly, the retention of offenses in which only females can be victims and only males can be offenders would not survive a constitutional challenge if other avenues to achieve the same result can be found. Bill C-15 provides that *any* touching for a

sexual purpose of a person aged under 14 would be a criminal offence (C-15, s.140). Similar acts committed by a person in a position of trust or responsibility on victims aged 14 but under 18 are also made criminal (C-15, s.146). The defence of previously chaste character and of an accused not more to blame are removed. Accused persons aged 12 or 13 will not be tried for an offence under s.140. The suggestion that a defence of consent may exist in a particular case can only be raised by accused 12 or more but under 16 involved with victims over 12 but under 14 and the accused must be less than two years older than their victim (C-15, s.139(2)). This limited defence cannot be raised by accused who are in a position of trust or authority.

Summary of Recommendation 3.4

Repeal s.147 (no male person deemed to commit offence under s.146 if under the age of 14 years) and leave to general age of criminal responsibility, 12 years. S.146 deals with sexual intercourse. For incest, see Recommendation 4.2.

Response

S. 147 of the *Criminal Code* has been repealed by C-15. Clause 2.

Summary of Recommendation 4.1

Retain s.150 (incest) and amend s.150(3) to provide that if one partner in incest is under duress, that person shall be excluded from the operation of the section, rather than merely stating that the court shall not be required to impose any punishment.

Response

No action has been taken. The present arrangement works well in practice and innocent victims of incestuous relationships are not proceeded against.

Summary of Recommendation 4.2

Remove presumption of incapacity for males aged under 14; see also Recommendation 3.4.

Response

S.147 of the *Criminal Code* has been repealed by C-15, Clause 2.

Summary of Recommendation 5.1

Amend s.155 (buggery) to provide that buggery of a person under the age of 14 is punishable by a maximum sentence of under 14 years (rather than life, as at present); and of a person aged between 14 and 18 years punishable by a maximum sentence of five years (rather than life, as at present). Buggery of a person over 18 to be no longer criminal, if consented to.

Response

The offence of buggery is renamed anal intercourse by C-15, s.154. The maximum penalty has been reduced to 10 years' imprisonment if prosecuted on indictment; the crime may also be prosecuted summarily. Anal intercourse involving persons under 18 continues to be criminal, unless the partners are married. Consensual anal intercourse by persons aged over 18 continues to be criminal where the act takes place in public or where more than two persons are involved.

Summary of Recommendation 5.2

Consent of any person under 18 on whom the act is committed should not be a defence; the offender's mistake of age should not be a defence.

Response

The question of consent does not arise, as the offence is committed by both participants to the act. The defence of mistake as to age has been removed by C-15, s.139(4), unless the accused took all reasonable steps to determine the age of the partner.

Summary of Recommendation 6.1

Bestiality to be a summary offence.

Response

Bestiality continues to be punishable on indictment under Bill C-15, s.155(1). However, the maximum penalty has been reduced to ten years' imprisonment, and the offence has been made a hybrid one, so that it may also be proceeded against summarily.

Summary of Recommendation 6.2

(i) Incitement or compulsion of another to commit bestiality to be indictable offence, maximum punishment under 14 years.

Response

Under Bill C-15, s.155(2) this offence is a hybrid offence, punishable on indictment by a maximum of ten years' imprisonment, or on summary conviction.

Summary of Recommendation 6.2

(ii) Committing an act of bestiality in the presence of a person under 18 years of age to be indictable, maximum sentence under 14 years.

Response

Under Bill C-15, s.155(3) the commission of an act of bestiality in the presence of a child under 14 is a hybrid offence, punishable on indictment by a maximum of ten years' imprisonment, or by summary conviction.

Summary of Recommendation 6.3

Mistake of age to be no defence where age is relevant to charges involving acts of bestiality.

Response

The defence to charges under s.155(3) of the accused's mistake as to age has been removed by C-15, s. 139(4), unless the accused took all reasonable steps to determine the age of the person present.

Summary of Recommendation 7.1

New offence of touching for a sexual purpose a young person in the genital or anal region with any part of the body or with any object.

Response

Bill C-15, s.140 provides a similar offence. However, the touching need not be confined to the anal or genital region; any touching of a child for a sexual purpose is made criminal.

Summary of Recommendation 7.2

Young person means under 16.

Response

The sexual touching offence under Bill C-15 is confined to touching of persons under 14.

Summary of Recommendation 7.3

Consent of young person or accused's mistaken belief in age to be no defence.

Response

The suggestion that a defence of consent may exist in a particular case can only be raised by accused 12 or more but under 16 involved with victims over 12 but under 14 and the accused must be less than two years older than the victim (C-15, s.139(2)). This limited defence cannot be raised by accused who are in a position of trust or authority. The defence to charges under s.155(3) of the accused's mistake as to age has been removed by C-15, s.139(4), unless the accused took all reasonable steps to determine the age of the person present.

Summary of Recommendation 8.1

New offence of inciting, etc. for a sexual purpose a child to touch any person's body: indictable, maximum five years.

Response

Bill C-15, s.141 created a similar offence: invitation to sexual touching. The maximum penalty is 10 years' imprisonment and the offence is also punishable on summary conviction.

Summary of Recommendation 8.2

Child means under 14; touch means directly or indirectly.

Response

Bill C-15, s.140 and 141 include these definitions.

Summary of Recommendation 8.3

Mistaken belief in age over 14 no defence.

Response

The defence to charges under s.141 of the accused's mistake as to age have been removed by C-15, s.139(4), unless the accused took all reasonable steps to determine the age of the person who was incited, etc. to touch.

Summary of Recommendation 9.1

Person in position of trust who commits a sexual touching of young person guilty of indictable offence, maximum 10 years. Bill C-15, s.146(1)(a) created a similar offence.

Summary of Recommendation 9.2

Young person is under 18.

Response

This is the age provided for in Bill C-15.

Summary of Recommendation 9.3

Touching is direct and indirect.

Response

This is included in the definition of the offence.

Summary of Recommendation 9.4

Consent of young person and mistake as to age are no defence.

Response

The defence of consent is not excluded by s.139(1) of Bill C-15. The defence to charges under s.146 of the accused's mistake as to age have been removed by C-15, s.139(5), unless the accused took all reasonable steps to determine the age of the person touched.

Summary of Recommendation 9.5

List of some of the relationships which establish the position of trust.

Response

No such list is included in Bill C-15. Each case will be assessed to determine the existence of the relationship of trust or responsibility.

Additional Note on the Sexual Exploitation Offence

Although the Badgley Committee did not recommend it, a further offence was created by Bill C-15. This involves a person in a position of trust or responsibility inciting a young person to sexual touching. This extends the protection of children under 14 suggested by Recommendation 8 to persons aged 14 but under 18, with respect to persons in a position of trust.

Summary of Recommendation 10

Retain s.169 of the Code and add an offence for those who expose their genitals to young person, i.e. under or appearing to be under 16.

Response

Bill C-15, s.169(2) provides for a summary conviction offence of exposing the genitals for a sexual purpose to a person under 14 years of age. Accused persons aged 12 or 13 will not be tried for an offence under this section (s.139(3)).

Summary of Recommendation 11

Loiter near places where children congregate – previous conviction at any time of any sexual offence.

Response

The recommendation of the Badgley committee seems to have been predicated on there being some defect in the present provisions in the *Criminal Code*. Such a defect does not, in fact exist. Under C-15, s.175(1)(e) retains the loitering offence for those convicted of a list of offenses, sexual in nature, and any s.687 before 1982. The prohibition extends so long as the convicted adult offender has not been pardoned for the prior sexual offence. In the case of young offenders, the prohibition extends until the sentence for the crime has been completed or served.

Summary of Recommendation 12.1 and Recommendation 12.2

Amend the *Criminal Code* to provide that conduct not involving force, threats or the fear of the application of force or the exercise of authority (such as, the giving of gifts) may nevertheless vitiate consent of a person under 14 to the commission of a sexual offence. The consent of a person under 14 should never be a defence.

Response

The provisions of Bill C-15 indicate that the defence of consent is wholly excluded where children under 12 are the victims. Where children aged 12 but under 14 are concerned, Bill C-15 would limit the availability of the defence of consent to offenders 12 years of age or more but under 16 who are less than two years older than the complainant and are neither in a

position of trust or authority towards the complainant, nor a person with whom the complainant is in a relationship of dependency.

Summary of Recommendation 13

Consent should not be a defence to charges of sexual assault (*Criminal Code*, s.246.1) sexual assault with a weapon, etc. (*Criminal Code*, s.246.2) or aggravated sexual assault (*Criminal Code*, s.246.3) on persons under 14.

Response

As shown previously, the defence of consent is severely constrained by Bill C-15. However, even the limited defence of consent available to accused under 16 is not available to charges under *Criminal Code* s.246.2 or s.246.3.

Summary of Recommendation 14

Out-dated sections to be repealed:
S.141 and 168(2) – one-year limitation on time for prosecution
S.147 – presumption for under 14-year old males
S.151 – seduction of female between 16 and 18
S.152 – seduction under promise of marriage
S.153 – illicit sexual intercourse
S.154 – seduction of female passenger on vessel
S.155 – buggery or bestiality
S.157 – gross indecency
S.158 – exception for private consensual sexual conduct by persons aged over 21.

Response

Bill C-15 has repealed these provisions, apart from those concerned with anal intercourse and bestiality, which have been re-drafted.

Summary of Recommendation 15

Repeal s.253 – transmission of venereal disease.

Response

This had been effected previously by Bill C-19 (1985).

Summary of Recommendation 17.1 to Recommendation 17.3

Review criteria for the definition of a person as a dangerous offender and, in particular, indicate that physical or mental harm is not a requirement when a child victim of a sexual offence is involved. Remove mention of prediction of future behaviour in dangerous offender legislation. If Recommendation 17.1 and Recommendation 17.2 are rejected, legislate special dangerous sex offender provisions.

Response

These recommendations are being studied further in light of the Report of the Canadian Sentencing Commission and the on-going study of correctional law.

Summary of Recommendation 18.1 to Recommendation 18.3

Evidence of children. All children should be competent to testify, if they can respond to simply phrased questions. Children without sufficient verbal capacity should not testify; the court should instruct the trier of fact on the need for caution in accepting a child's testimony in any case where such an instruction seems necessary.

Response

Bill C-15 amended the *Canada Evidence Act* to give effect to these recommendations. If a child can communicate the evidence and promises to tell the truth, the evidence will be heard. The weight to be given to the evidence is a matter to be decided by the Judge.

Summary of Recommendation 19.1 to Recommendation 19.3

Removal of necessity for corroboration of the unsworn testimony of a child and of testimony in trials of certain sexual offenses.

Response

Effect is given to this recommendation by Bill C-15, Clause 11, 15 and 18.

Summary of Recommendation 20

Abrogation of doctrine of recent complaint.

Response

Effect is given to this recommendation by Bill C-15, Clause 11.

Summary of Recommendation 21

Previous statement of child under 14 admissible, even if child does not testify. "Statement" means an oral or a recorded assertion.

Response

The provisions of Bill C-15 do not go so far as the recommendations of the Badgley Committee. It may be noted that the Special committee on Pornography and Prostitution (the Fraser Committee), which had the advantage of reviewing the Badgley Recommendations before reporting, disagreed with the Badgley proposal. However the Bill C-15 does provide a Scheme, in s.16, by which children's and young person's previous statements can be introduced as evidence, provided that the statement is videotaped and that the child adopts the contents of the videotape.

Summary of Recommendation 22

Previous sexual conduct inadmissible to impeach credibility as a witness in all sexual offenses.

Response

Effect is given to this recommendation by Bill C-15, Clause 13.

Summary of Recommendation 23

Removal of spousal communication as a bar to testimony.

Response

Effect is given to this recommendation by Bill C-15, Clause 17.

Summary of Recommendation 25

Permit a judge to hold a trial *in camera* if this is required to obtain a full and candid presentation of a child's testimony.

Response

The judge may already exclude public and press, if the administration of justice requires this. Obviously, the administration of justice is aided by a witness giving testimony in a candid manner.

Summary of Recommendation 26.1 to Recommendation 26.7

Prevention of publication identifying information which would serve to identify "the child". Such prohibition should be automatic.

Response

Bill C-15 provides that a judge or justice may on his or her own motion or shall on application, make an order directing that the identity of the complainant or a witness who is under the age of eighteen years and any information that would disclose their identity shall not be published in any document or broadcast in any way.

This non-publication order is available in respect of all sexual offenses.

To the extent that the subsection makes the ban on publication mandatory upon application by a prosecutor or complainant it has

effect by reason of its inconsistency with the freedom of the press guarantee in subsection 2(b) of the *Charter*. The issue is currently before the Supreme Court of Canada.

Additional Note on Children's Evidence

Bill C-15 provides that a child may testify behind a screen or outside the courtroom by means of closed-circuit television if in the opinion of a judge this is necessary to obtain a full and candid account of the acts complained of by the complainant. (S.442(2.1) and (2.2)).

Summary of Recommendation 44

Cost-shared program should be established to provide special police squads to deal with aspects of juvenile prostitution.

Response

This proposal is still receiving attention.

Summary of Recommendation 45

Criminalize youth prostitution.

Response

This recommendation has not been proceeded with. It may be noted that the Fraser Committee considered but did not support the Badgley recommendation.

Summary of Recommendation 46

Criminalize the client of a youthful prostitution.

Response

Effect is given to this recommendation by Bill C-15, Clause 9, s.195(4), which creates an indictable offence with a maximum penalty of 5 years imprisonment.

Summary of Recommendation 48.1

In relation to procuring offenses, the phrase "illicit sexual intercourse" should be extended to include any sexual act.

Response

Bill C-15 makes no change to the substantive procuring offence.

Summary of Recommendation 48.2 to Recommendation 48.5

Being habitually in the company of only one prostitute (rather than "prostitutes", as at present) should suffice to raise the presumption that an accused is living on the avails of prostitution. The requirement that the offence be prosecuted within one year, and that corroboration be required, should be abrogated. Where the prostitute is under 18, the maximum penalty should be raised to 14 years, imprisonment; a minimum penalty of two years, imprisonment should also apply.

Response

Effect is given to the recommendation on the presumption by Bill C-15, s.195(3). The necessity for prosecution within a year and for corroboration is done away with. The penalty for living on the avails of prostitutes under 18 is raised by Bill C-15, s.195(2) to 14 years: no minimum penalty is provided.

Summary of Recommendations 49.1 to 52

These recommendations dealt with child pornography and were reflected in Bill C-54 which died on the Order Paper in October, 1988.



General Assembly

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GENERAL

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5 December 1989

Forty-fourth session
Agenda item 108

RESOLUTION ADOPTED BY THE GENERAL ASSEMBLY

[on the report of the Third Committee (A/44/736 and Corr.1)]

44/25. Convention on the Rights of the Child

The General Assembly,

Recalling its previous resolutions, especially resolutions 33/166 of 20 December 1978 and 43/112 of 8 December 1988, and those of the Commission on Human Rights and the Economic and Social Council related to the question of a convention on the rights of the child,

Taking note, in particular, of Commission on Human Rights resolution 1989/57 of 8 March 1989, 1/ by which the Commission decided to transmit the draft convention on the rights of the child, through the Economic and Social Council, to the General Assembly, and Economic and Social Council resolution 1989/79 of 24 May 1989,

Reaffirming that children's rights require special protection and call for continuous improvement of the situation of children all over the world, as well as for their development and education in conditions of peace and security,

Profoundly concerned that the situation of children in many parts of the world remains critical as a result of inadequate social conditions, natural disasters, armed conflicts, exploitation, illiteracy, hunger and disability, and convinced that urgent and effective national and international action is called for,

Mindful of the important role of the United Nations Children's Fund and of that of the United Nations in promoting the well-being of children and their development,

1/ See Official Records of the Economic and Social Council, 1989, Supplement No. 2 (E/1989/20) chap. II, sect. A.

Convinced that an international convention on the rights of the child, as a standard-setting accomplishment of the United Nations in the field of human rights, would make a positive contribution to protecting children's rights and ensuring their well-being,

Bearing in mind that 1989 marks the thirtieth anniversary of the Declaration of the Rights of the Child 2/ and the tenth anniversary of the International Year of the Child,

1. Expresses its appreciation to the Commission on Human Rights for having concluded the elaboration of the draft convention on the rights of the child;

2. Adopts and opens for signature, ratification and accession the Convention on the Rights of the Child contained in the annex to the present resolution;

3. Calls upon all Member States to consider signing and ratifying or acceding to the Convention as a matter of priority and expresses the hope that it will come into force at an early date;

4. Requests the Secretary-General to provide all the facilities and assistance necessary for dissemination of information on the Convention;

5. Invites United Nations agencies and organizations, as well as intergovernmental and non-governmental organizations, to intensify their efforts with a view to disseminating information on the Convention and to promoting its understanding;

6. Requests the Secretary-General to submit to the General Assembly at its forty-fifth session a report on the status of the Convention on the Rights of the Child;

7. Decides to consider the report of the Secretary-General at its forty-fifth session under an item entitled "Implementation of the Convention on the Rights of the Child".

61st plenary meeting
20 November 1989

ANNEX

Convention on the Rights of the Child

PREAMBLE

The States Parties to the present Convention,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights 3/ and in the International Covenants on Human Rights, 4/ proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

3/ Resolution 217 A (III).

4/ See resolution 2200 A (XXI), annex.

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 5/ and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 2/ and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), 4/ in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) 4/ and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth", 6/

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; 7/ the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); 8/ and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, 9/

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

5/ See League of Nations, Official Journal, Special Supplement No. 21, October 1924, p. 43.

6/ Resolution 1386 (XIV), third preambular paragraph.

7/ Resolution 41/85, annex.

8/ Resolution 40/33, annex.

9/ Resolution 3318 (XXIX).

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to speedily re-establishing his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 2, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others; or

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

(a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

(b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

(c) Encourage the production and dissemination of children's books;

(d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

(e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.
4. States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - (a) To diminish infant and child mortality;
 - (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;

(c) To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

(d) To ensure appropriate pre-natal and post-natal health care for mothers;

(e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breast-feeding, hygiene and environmental sanitation and the prevention of accidents;

(f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.
4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - (a) Make primary education compulsory and available free to all;
 - (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - (c) Make higher education accessible to all on the basis of capacity by every appropriate means;
 - (d) Make educational and vocational information and guidance available and accessible to all children;
 - (e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

- (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;
- (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
- (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
- (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
- (e) The development of respect for the natural environment.

2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admission to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity;

(b) The exploitative use of children in prostitution or other unlawful sexual practices;

(c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

(a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

(b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

(c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

(d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

(a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

(b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

- (i) To be presumed innocent until proven guilty according to law;
- (ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
- (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
- (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
- (v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
- (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;
- (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

(a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

(b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- (a) The law of a State Party; or
- (b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

(a) Within two years of the entry into force of the Convention for the State Party concerned;

(b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

(a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

(b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

(c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

(d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

In witness thereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

Recommendations

Chapter 3 – Systems in Search of Harmony and Effectiveness

Recommendation 1

That the Minister of National Health and Welfare be designated as the minister responsible for children (in this context, the United Nations definition of "children" is used, whereby children are defined as persons under 18 years of age).

Recommendation 2

That Health and Welfare Canada establish a Children's Bureau within the department, with a specific mandate and function as the responsibility centre within the federal government for a broad range of children's interests to include:

- serving as the leadership centre for child-centredness within the federal government;
- combating child abuse, including the operation of a national resource centre for child abuse;
- children growing up in poverty;
- federal daycare concerns;
- the implementation in Canada of the *United Nations Convention on the Rights of the Child*; and
- the responsibility to examine Cabinet documents prepared by federal government departments for their potential impact on the well-being of children.

Recommendation 3

That the Minister of National Health and Welfare recruit a member of his/her staff to serve in the field of children's services.

Recommendation 4

That a National Resource Centre on Child Abuse, responsible to the Children's Bureau, be established by the federal government.

Recommendation 5

That the Minister of National health and Welfare take steps to assist the development of a coalition in the non-governmental sector for the purpose of advocating for the well-being of children. Initially, funds should be provided for organizations to meet to develop the coalition, followed by an ongoing program to assist the non-governmental coalition to pursue a program to enhance the well-being of children.

Recommendation 6

That the Minister of National Health and Welfare authorize support for five to seven Regional Resource Centres for the Prevention of Child Abuse across Canada. Rather than establishing entirely new centres, these centres may be additions or expansions, wherever feasible, to existing organizations. It is anticipated that common functions would be:

- to serve as resource bodies for specialized and interdisciplinary training in the field of child abuse for individuals and groups in its region;
- to maintain a resource and information centre that is computer-linked to the National Resource Centre for Child

- Abuse Prevention, and to provide resource materials and training materials on child abuse;
- to assist regional resources in providing services accessible to disabled children (hearing, visual, mobility, developmentally and mentally impaired);
- to support local co-ordinating committees on child abuse and a variety of other community-based organizations with information, consultation, training and resource materials;
- to initiate appropriate research activities in accordance with particular areas of need and interest of the regional resource centres;
- to assist government authorities in the development of appropriate policy recommendations; and
- to develop specialized expertise within the field of child sexual abuse, which in turn can be a resource to the nation as a whole.

Recommendation 7

That the Minister of National Health and Welfare, in consultation with other federal ministers, appoint Expert Advisory Committees related to child abuse, in the following areas:

- public awareness and primary prevention;
- justice issues;
- healing and treatment; and
- aboriginal concerns.

It is further proposed that the expert advisory committees report directly to the Minister of National Health and Welfare, and through him/her to other federal ministers.

Recommendation 8

That a federal-provincial/territorial cost-sharing program be established in the area of child abuse. Provisions should include:

- a phased-in pilot program arrangement under specified budget amounts, which can be assessed for effectiveness and increased on an annual basis;
- support for local child abuse co-ordinating committees;
- costs of child abuse co-ordinators at the community level, including aboriginal communities and disabled children;

- additional resources to assist currently underresourced front-line services;
- a way of meeting significant gaps in services that currently exist;
- costs of mental health and social services for victims, other family members and adult survivors, including self-help groups; and
- support to the operation of Regional Resource Centres.

Recommendation 9

That, in order to support current initiatives within provincial/territorial jurisdictions, each province and territory ensure an appropriate interdepartmental mechanism is established to co-ordinate programs and resources to address child abuse issues.

Recommendation 10

That provincial/territorial governments ensure that locally based co-ordinating committees are encouraged and supported, with the assistance of child abuse co-ordinators. These committees should facilitate the work of teams of workers from two or more agencies who may be responsible for such matters as investigation and treatment, and should ultimately be eligible for federal cost-sharing (see Recommendation 8).

Recommendation 11

That the Canadian Medical Association, in conjunction with the provincial/territorial medical associations, carefully review the issues facing the medical profession in relation to child abuse and bring forward recommendations that will address these issues. The scope of the enquiry should include:

- orientation and updating of all medical personnel to the emerging realities of child abuse, including orientation to new resources related to the medical examination, sexually transmitted diseases in children and protocols for reporting, including the vulnerability of disabled children;
- protocols for family doctors in smaller communities related to reporting and assisting with victim assessment and treatment requirements; and

- provincial/territorial health plans that, in conjunction with their respective medical associations, provide remuneration arrangements for child abuse cases to adequately reflect their difficult and sensitive nature, and allow time billing.

Recommendation 12

That protocols be developed in each local community and rural region to facilitate interdisciplinary and interjurisdictional co-operation among service providers and various systems in combating child abuse.

Recommendation 13

That the provinces and territories have an appropriate mechanism for independently monitoring services for children by government departments and their agents and for investigation of complaints by and on behalf of children, utilizing the best experiences already developed. The mandate should include a commitment to the declaration of principles on the handling of children's complaints, already adopted by the Conference of Canadian Ombudsmen, and the *United Nations Convention on the Rights of the Child*. The mechanism should include responsibility for monitoring services provided to children by government and on behalf of government by non-governmental and private organizations. Where such a mechanism is already in place, it must be ensured that it is independent and easily accessible. It should also publish an annual report regarding the government's performance in serving children.

Chapter 4 – Public Awareness and Primary Prevention

Recommendation 14

That the National Family Violence Film Collection be maintained and regularly updated so that the Canadian public has access to a broad range of excellent training films on child sexual abuse, and that the federal government continue its support of the National Film Board in the development of new films that are required to ensure public awareness. The CBC and other

public broadcasters should regularly broadcast appropriate documentaries and dramas dealing with domestic violence and child abuse.

Recommendation 15

That Health and Welfare Canada continue to work with the Council of Ministers of Education and the national education associations in developing long-range programs of values education, including those related to issues of patriarchy and hierarchy, domestic violence and sexual abuse.

Recommendation 16

That provincial ministries of education, culture and recreation, and social services should continue to fund and plan strategies that will encourage an enhanced liaison between school personnel and community leaders, supported by developmentally appropriate preventive education programs, targeting pre-school through elementary to secondary levels of education. As well, teacher training must regularly deal with child sexual abuse.

Recommendation 17

That the federal and provincial/territorial governments continue to support community-based primary prevention, public awareness programs so that all sectors of society are encouraged to participate in the prevention of child sexual abuse.

Recommendation 18

That the federal Minister of Justice introduce legislation that will address the protection of children from the harmful effects of pornography, including a revision of the Criminal Code, harsher penalties for using children in the production of sexually explicit materials, stricter monitoring of our borders by Customs and Excise officials, and prohibitions on the distribution, possession or sale of pornographic materials to children. The process of enacting legislation dealing with issues related to children and child pornography should be separated from that dealing with adults.

Recommendation 19

That as part of a general prevention strategy, the Canadian Radio-television and Telecommunications Commission (CRTC) assume a more active role in regulating broadcasting, with the goal of reducing the amount of violent and sexually exploitative material available to the general public.

Recommendation 20

That all relevant professional associations be encouraged to develop policy with respect to child abuse and the role their professionals should play in the detection, treatment and prevention of abuse.

Recommendation 21

That child and youth serving organizations in Canada continue and further develop their efforts to combat child abuse in Canada, including the addition of an official policy to prevent child abuse within their organization. Official policies should set out guidelines related to the selection, training and screening of leaders.

Recommendation 22

That churches develop policies and procedures for responding appropriately to the problem of child sexual abuse. This includes the articulation of guidelines for church leaders to follow in the event of disclosures, training for appropriate pastoral counselling, procedures to follow in the event that church personnel are accused of sexual abuse, and comprehensive screening procedures for clergy and other personnel who work with children and youth.

Chapter 5 – Child Sexual Abuse and the Justice System

Recommendation 23

That in each jurisdiction there should be a clear government policy to charge and prosecute child abusers in every case where the Crown Attorney is satisfied that there is sufficient evidence to merit prosecution *and* that the child will not be unduly traumatized by the process.

Recommendation 24

That local protocols should address the problem of delay of treatment and ensure that children are not denied access to treatment pending resolution of criminal proceedings.

Recommendation 25

That all police officers and supervisory personnel receive training in issues related to child sexual abuse and domestic violence; and

That all police forces have officers who specialize in the handling of child sexual abuse cases and who have had specialized multi-disciplinary training in programs of at least one week's duration.

Recommendation 26

That legislation or policy in each Canadian jurisdiction require that an autopsy or investigation will normally be performed in cases where a child under the age of 18 dies as a result of suspected abuse, accident, homicide, suicide or unknown cause. The chief medical examiner should review all children's deaths where a child welfare agency has been involved.

Recommendation 27

That the federal government fund and assess model programs, and collect and disseminate information about successes and problems with implementation of Bill C-15. In particular, the federal government should provide leadership in training, monitoring and disseminating information with regard to the use of videotapes, closed-circuit television and screens, and in the acceptance of child witnesses and their preparation and support in court.

Recommendation 28

That the federal Department of Justice should monitor challenges to Bill C-15 under the Canadian Charter of Rights and Freedoms and actively defend the legislation against constitutional attack. The federal government should exercise its right of intervention in cases where there are Charter challenges, ensuring that trial judges receive appropriate evidence about the need for and validity of this type of legislation; and

That, if provisions of the new law are ruled unconstitutional, they should be redrafted and re-enacted to meet constitutional requirements and not be simply abandoned.

Recommendation 29

That Parliament reform the laws governing child sexual abuse prosecutions to:

- permit qualified experts to testify about the characteristics and dynamics of sexual abuse, and to express opinions on the reliability of a child's statements;
- permit witnesses to testify about the out-of-court statements made by a child about allegations of abuse;
- permit judges dealing with bail hearings to order that persons charged with sexual offences against children vacate their premises, if this is necessary to promote the interests of a child, and to order that such persons not associate with particular children pending trial;
- permit judges to allow an adult to accompany a child under age 12 to the witness stand, provided that this is necessary to ensure the child is not intimidated by the process and that this is not prejudicial to the rights of the accused to a fair trial; and
- permit use of videotapes of a prior statement by any child witnesses in a child sexual abuse prosecution.

Recommendation 30

That Parliament study the improvement of the laws governing child sexual abuse prosecutions in particular, with reference to:

- ensuring that the videotape, screen and closed-circuit television provisions are effective; and
- considering the possibility of permitting the appointment and participation of counsel to protect the needs and interests of children.

Recommendation 31

That provincial/territorial governments take steps to ensure the effective implementation of Bill C-15, including jurisdiction-wide access to

videotaping, closed-circuit TV, screens, child victim witness support programs, and Crown continuity in the handling of child abuse cases.

Recommendation 32

That those responsible for the administration of justice in each jurisdiction ensure that policies are established to show sensitivity to the needs of professionals called upon to testify in child sexual abuse cases. There must be respect for professional needs when scheduling court appearances, as well as reasonable compensation.

Recommendation 33

That provincial/territorial attorneys general develop policies to give priority in court scheduling to child sexual abuse cases.

Recommendation 34

That the federal Department of Justice commission an architectural study of developments in courtroom and courthouse design and promote the construction of facilities sensitive to the needs of children and other vulnerable witnesses.

Recommendation 35

That the National Judicial Education Centre in Ottawa and provincial and national judges' associations ensure that judicial education programs include a study of the legal issues related to child sexual abuse, the dynamics of child abuse, and the needs and capabilities of child witnesses.

Recommendation 36

That the federal Department of Justice fund a project to study the ethical issues for lawyers in child abuse cases and the ethics codes of other jurisdictions with regard to this type of case. A model ethics code for dealing with children and other vulnerable witnesses should be developed and circulated to all provincial/territorial law societies and to the Canadian Bar Association for discussion and possible adoption.

Recommendation 37

That sentencing judges receive information about the damaging long-term effects of child sexual abuse. This information should be imparted in judicial education programs as well as in individual cases through evidence at sentencing hearings.

Recommendation 38

That federal and provincial/territorial corrections departments ensure that convicted child abusers have access to treatment services;

That provincial/territorial treatment services should eventually be eligible for federal cost-sharing (see Recommendation 8);

That sentencing judges be provided with appropriate information about child abusers and available resources, and that they have the jurisdiction to order a pre-sentence assessment prepared by a mental health professional or assessment team;

That federal legislation be amended to permit judges to order that treatment services be available to offenders; and

That the pre-sentence assessment be forwarded to correctional authorities responsible for the management and treatment of the offender following sentencing.

Recommendation 39

That provincial/territorial justice and corrections officials be encouraged to establish experimental post-charge programs for dealing with offenders. These programs should be carefully studied and monitored. Their success may eventually justify legislative amendments and more widespread programs.

Recommendation 40

That Parliament amend the *Criminal Code* to allow judges to order probation terms of up to life for those convicted of sexual offences; and

That probation services ensure that those on probation orders actually comply with the terms of their orders.

Recommendation 41

That parole legislation be amended to allow longer periods of supervision and support beyond the warrant expiry date for those

released from prison following commission of a child sexual abuse offence. It is important that supervision and support in the community following release from custody apply to adolescent offenders sentenced under the *Young Offenders Act*;

That parole staff and board members receive adequate training in the characteristics and treatment of those who sexually abuse children; and

That released offenders have adequate access to community-based treatment resources.

Recommendation 42

That provincial/territorial governments ensure that adequate services are provided to 16- and 17-year-old adolescents who have been victims of abuse. Consideration should be given in each jurisdiction to ensuring that child protection legislation and services are applicable until a youth reaches the age of 18.

Recommendation 43

That provincial/territorial governments amend their legislation to facilitate the giving of evidence by children in civil cases. They should expand the scope for use of videotapes and out-of-court statements of children, and should at least ensure that child witnesses receive all the benefits of Bill C-15.

Recommendation 44

That child abuse protocols deal with issues related to parallel civil and criminal proceedings, and ensure that decisions about a child's welfare are not postponed solely to satisfy the needs of the criminal justice system; and

That provincial/territorial legislatures enact legislation to render admissible in a child protection case transcripts from a prior criminal trial.

Recommendation 45

That police and child protection investigators have special training in the dynamics of abuse allegations in the context of parental custody or access disputes and that they continue to be involved as long as there is evidence of abuse sufficient to merit criminal proceedings or a risk to the child.

Recommendation 46

That the federal government co-operate with the provincial/territorial governments to establish Unified Family Courts throughout Canada.

Recommendation 47

That provincial/territorial legislatures amend their limitation statutes to permit civil damages suits for adult survivors of childhood sexual assaults.

Recommendation 48

That provincial/territorial governments review the legislation and policies that govern Criminal Injuries Compensation Boards to ensure that victims of child sexual abuse receive compensation and support that recognizes the intangible nature of their injuries and their long-term needs;

That consideration be given to allowing for compensation for abuse suffered prior to the establishment of the boards; and

That the existence of the boards be publicized to victims of abuse and to those who work with them to ensure that all who are eligible can apply.

Recommendation 49

That the federal Department of Justice study whether courts sentencing individuals convicted of child sexual abuse should have the jurisdiction to order that restitution be paid to victims, for example, to cover the cost of therapy.

Recommendation 50

That Health and Welfare Canada and other federal departments continue to support programs that assist volunteer organizations to deal with child abuse, including development of policies related to the screening and supervision of volunteers, and that Health and Welfare Canada support efforts to ensure that all organizations working with children have policies related to child abuse, including screening and supervision of staff. Co-ordination at the federal level is important and should be the responsibility of the Children's Bureau.

Recommendation 51

That the federal Department of the Solicitor General and the Office of the Privacy Commissioner ensure that legislation and policies permit the disclosure of criminal offence records relating to child abuse about persons applying for or occupying paid or volunteer positions of responsibility for children. Such information should be disclosed only with the consent of the individual concerned, although the failure to give consent for a criminal record check may be grounds for denying an individual a position of responsibility for children.

Recommendation 52

That provincial/territorial governments establish screening mechanisms to ensure that those with a history of child abuse do not assume positions of responsibility for children. The screening should utilize registers that identify abusers on the basis of a civil or criminal finding, and offer alleged abusers the right to due process. The federal government must ensure that provincial/territorial registers have access to criminal records related to child abuse; and

That, if requested by provincial/territorial governments, the appropriate federal departments should provide access to social insurance numbers or fingerprints to permit screening for a history of child abuse by persons seeking or occupying a position of responsibility for children. There must be appropriate measures undertaken to protect privacy.

Recommendation 53

That provincial/territorial officials consult with one another with a view to establishing common concepts and definitions for identifying and registering child abusers and to discuss interjurisdictional problems, particularly those related to screening.

Chapter 6 – The Challenges of Healing and Treatment

Recommendation 54

That addressing the needs of adult survivors of child sexual abuse should be an important objective for provinces and territories, and that self-help and other community-based support programs for survivors be considered eligible for cost-sharing programs with the federal government (see Recommendation 8).

Recommendation 55

That the current Federal/Provincial/Territorial Committee on Mental Health continue its active efforts to improve mental health services to children, especially those who are victims of child sexual abuse; and further

That provincial/territorial governments develop methods of providing psychiatric consultation services in community-based settings, as well as utilizing the services of psychologists, social workers, and community health nurses.

Recommendation 56

That provincial/territorial governments address the gaps in the delivery of treatment services, such as the need for crisis case management teams, comprehensive diagnostic assessment services, and the adequate support of community-based agencies.

Recommendation 57

That the federal government, in partnership with provincial/territorial governments, study the particular problems in providing treatment services to rural and remote communities and develop innovative agreements to better utilize treatment specialists, self-help groups, indigenous helpers and community volunteers. These initiatives should be cost-sharable (see Recommendation 8).

Recommendation 58

That provincial/territorial policies and therapists ensure that treatment plans for child victims are shared with non-offending parents and other caregivers, and that these individuals are appropriately involved in the healing process.

Recommendation 59

That the federal government fund research and evaluation studies into the effectiveness of different treatment intervention strategies for victims, families and offenders.

Recommendation 60

That the Expert Advisory Committee on Healing and Treatment¹, in conjunction with experts in the field and appropriate government jurisdictions, develop a long-range plan for effective sex offender treatment strategies. This may involve supporting work that has already been completed, such as the Solicitor General working group, and/or initiating further consultation and research activity. The implementation of proposed changes will require consultation and co-operation of all the government jurisdictions involved.

Chapter 7 – Information Needed: Education, Training and Research

Recommendation 61

That the Canadian Association of Chiefs of Police and the RCMP review police policy and practice related to the investigation of child sexual abuse and the necessary levels of expertise required by police officers in this area;

That police departments support policies to ensure there are front-line specialists available for child abuse cases; and

That, through the Canadian Police College, senior police officials be required to take an orientation program dealing with the area of child abuse.

¹ See Recommendation 7.

Recommendation 62

That Canadian law schools ensure that all students acquire a basic understanding of the issues of domestic violence and child sexual abuse, perhaps in the context of their family law or criminal law courses. Interested students should have the opportunity to take advanced-level courses dealing with child sexual abuse and to acquire clinical experience in the area. Continuing legal education programs should regularly be offered on the subject of civil and criminal aspects of child sexual abuse.

Recommendation 63

That provincial ministries of the Attorneys General offer week-long training programs for Crown Attorneys, child protection investigators and court-based counsellors on adequate preparation for sensitivity of child victims and on such issues as the use of videotapes.

Recommendation 64

That the responsible departments of government ensure that all probation and parole officers receive specialized training in child sexual abuse.

Recommendation 65

That Health and Welfare Canada, in conjunction with provincial/territorial governments, ensure that appropriate training concerning the identification and treatment of victims of child sexual abuse is available and encouraged for those professionals who are working on the front line of family service, such as family counsellors, public health nurses and workplace counsellors.

Recommendation 66

Professional schools and colleges should ensure that those who will work with children are competent to respond to cases of child sexual abuse disclosure, using a humane child-centred approach consistent with established community protocols and the laws of the land.

Recommendation 67

That federal government departments ensure innovative federally funded projects in child abuse have a research or evaluation component. Information in the form of research summaries should be systematically published and distributed to the community of practitioners and researchers in child sexual abuse.

Recommendation 68

That Health and Welfare Canada continue to involve national associations, scholars, practitioners, professional groups, government agencies and research councils in dialogue about child sexual abuse and that, with the assistance of provincial/territorial governments, it encourage similar discussion at provincial/territorial levels for the purposes of clarifying information and research needs. Other relevant federal departments should also be involved. In addition, such discussions should include representatives of the relevant national level research councils such as the social sciences and humanities research council and the medical research council.

Recommendation 69

That the proposed Children's Bureau of Health and Welfare Canada, in conjunction with other federal departments and provincial/territorial departments, establish a federal-provincial/territorial committee to establish common definitions related to child sexual abuse so that a national statistical data base can be established.

Chapter 8 – Aboriginal Communities

Recommendation 70

That the federal government appoint an Aboriginal Expert Advisory Committee on child abuse with a mandate to develop a five-year action plan¹ to address child abuse and related issues in aboriginal constituencies. The Expert Advisory Committee should be made up of aboriginal representatives, including band councils, aboriginal associations, aboriginal workers, child abuse experts and representatives from appropriate government jurisdictions. The Expert Advisory Committee should hold national and/or regional consultations with representatives of aboriginal communities to ensure that the emerging plan reflects the realities and concerns of local communities.

Chapter 9 – Emerging Concerns: Special Groups

Recommendation 71

That the Children's Bureau of Health and Welfare Canada, in conjunction with other federal departments, the provinces and territories and appropriate non-governmental associations and professional groups, establish a special task force or federal-provincial/territorial committee to examine the issues of child abuse for children in institutional settings, very young children, disabled and disturbed children and new Canadians. The task force should be asked to report within 18 months with comprehensive strategies to reduce the risk of child abuse for these children.

Recommendation 72

That the Children's Bureau of Health and Welfare Canada in conjunction with the provinces and territories and appropriate non-governmental associations and professional groups establish a special task force or federal, provincial/territorial committee to examine the issue of child abuse in rural and remote communities. The task force should be asked to report within 18 months with comprehensive strategies to deal with child abuse in rural and remote settings.

Chapter 10 – Stages of Implementation

Recommendation 73

Within six months of the release of this report, the federal government should issue a statement indicating what action it intends to take in response to the report's recommendations.

Recommendation 74

That the federal government publish an annual report that describes its progress in combating child abuse.

1 Government and native child welfare agencies have already initiated programs to address aboriginal child sexual abuse. Where solutions are evident, communities will be undertaking immediate action. Along with these immediate steps, however, it is anticipated that a longer-range strategy will be needed; hence the reference to five years.

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